

OFFICIAL REPORT OF PROCEEDINGS  
BEFORE THE  
NATIONAL LABOR RELATIONS BOARD

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In the Matter of:

Case Nos. 25-CA-132518, 25-CA-135316, 25-CA-135335 &  
25-CA-159531

FALCON TRUCKING, LLC and RAGLE, INC., A SINGLE  
EMPLOYER and/or JOINT EMPLOYERS,

Respondent,

and

CHAUFFEURS, TEAMSTERS AND HELPERS, LOCAL UNION NO.  
215 A/W INTERNATIONAL BROTHERHOOD OF TEAMSTERS,

Charging Party.

Place: Zoom  
Date: September 21, 2022  
Pages: 1 through 26  
Volume: 1 of 1

OFFICIAL REPORTERS

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1 UNITED STATES OF AMERICA  
2 BEFORE THE NATIONAL LABOR RELATIONS BOARD  
3 REGION 25  
4

5 In the Matter of:

6  
7 FALCON TRUCKING, LLC and  
8 RAGLE, INC., A SINGLE EMPLOYER  
9 and/or JOINT EMPLOYERS,

10  
11  
12 and

13  
14  
15 CHAUFFEURS, TEAMSTERS AND  
16 HELPERS, LOCAL UNION NO. 215 A/W  
17 INTERNATIONAL BROTHERHOOD OF  
18 TEAMSTERS.

Case No. 25-CA-132518  
25-CA-135316  
25-CA-135335  
25-CA-159531

19  
20 The above-titled matter came on for hearing  
21 pursuant to Notice, before the HONORABLE CHRISTAL J.  
22 KEY, Administrative Law Judge, held via Zoom, on  
23 Wednesday, the 21<sup>st</sup> day of September 2022, at 9:03 a.m.  
24 eastern time.

**A P P E A R A N C E S**

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(Continued)

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**A P P E A R A N C E S**

(Continued)

**On Behalf of the Charging Party:**

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P R O C E E D I N G S

*[9:03 a.m. Eastern]*

JUDGE CHRISTAL J. KEY: On the record, please.

We're on. The hearing will now come to order.

This is a formal trial before the National Labor Relations Board in the case of Falcon Trucking, LLC and Ragle, Inc., a single Employer and/or Joint Employer. Cases 25-CA-132518, 25-CA-135316, 25-CA-135335, and 25-CA-15931.

Administrative Law Judge Christal Key presiding.

For your reference, I am assigned to the Washington D.C. Division of Judges and any communications related to the hearing should be addressed to that office.

At the point we conclude the hearing, if any request for extensions of time related to briefs should be addressed to the Associate Chief Judge.

Will Counsel and other representatives state their name for the record?

MR. JOHNSON: Derek Johnson for the General Counsel.

MR. MORRIS: Samuel Morris for the Charging Party.

MR. GARRISON: Brian Garrison for the Respondents.

MR. PRELLER: Alexander Preller for the Respondents.

JUDGE KEY: This hearing is being conducted by Zoom

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1 Video Conference for Government Platform because of the  
2 compelling circumstances presented by the COVID-19  
3 pandemic.

4 I have provided guidelines and instructions to the  
5 parties about how we will conduct the hearing and I will  
6 appreciate everyone's professionalism and patience with  
7 the video format.

8 I am not going to go through the requirements  
9 related to the hearing. I will do that on the date of  
10 the hearing, but we've previously agreed or discussed  
11 that this hearing is going to be limited to production  
12 of outstanding records.

13 For the record, does anyone have any objection to  
14 conducting this trial via video?

15 MR. MORRIS: Not from the Charging Party, Your  
16 Honor.

17 MR. JOHNSON: Nor from the General Counsel.

18 MR. GARRISON: And not from the Respondents.

19 JUDGE KEY: Mr. Johnson, please introduce the  
20 formal pleadings and formal papers.

21 MR. JOHNSON: Certainly, Your Honor. I have  
22 distributing through the SharePoint site what has been  
23 marked for identification as General Counsel's Exhibits  
24 1(a) through 1(eee). All parties and the Court Reporter  
25 have access to these documents through the SharePoint

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1 site for their review and to download for their  
2 retention and I would...

3 JUDGE KEY: Is there any -- oh. Go ahead.

4 MR. JOHNSON: I was just going to add that I would  
5 move those into evidence.

6 **(General Counsel's Exhibit 1(a) through 1(eee),**  
7 **inclusive, marked for identification.)**

8 JUDGE KEY: Any objection from Respondent?

9 MR. PRELLER: No. No objection from Respondents,  
10 Your Honor.

11 JUDGE KEY: Any objection from the Union?

12 MR. MORRIS: No, thank you, Your Honor.

13 JUDGE KEY: I hereby admit General Counsel's  
14 Exhibit 1(a) through 1(eee). 1(eee) being the Index and  
15 Description of the Formal Papers.

16 **(General Counsel's Exhibit 1(a) through 1(eee),**  
17 **inclusive, received into evidence.)**

18 JUDGE KEY: Are there any preliminary motions?

19 MR. JOHNSON: From the General Counsel's  
20 perspective, we have the Motion to Strike Respondent's  
21 Answer. I understand the Court's, Your Honor's intended  
22 ruling on that, so, but to the extent that that would be  
23 technically a not standing motion.

24 JUDGE KEY: Just so the record is clear, we've had  
25 preliminary conference calls related to the issue and

1 it's -- my ruling is that the motion is premature. If I  
2 find that Respondent breached the settlement agreement,  
3 it would be appropriate to strike the answer and if I  
4 find that they did not, really the issue would become  
5 moot because there would have been compliance with the  
6 settlement agreement. So I will rule on your Motion to  
7 Strike at the time I decide the case.

8 Are there any other preliminary motions?

9 MR. PRELLER: Your Honor, one small clarification.  
10 Having it is exceedingly small, having reviewed the  
11 appearance form that counsel for the General Counsel  
12 alluded to, it lists myself as the main representative  
13 for Ragle and in fact, that would be Brian Garrison. So  
14 I don't know that it matters for purposes of the form  
15 itself and how that gets structured, but.

16 JUDGE KEY: Okay. Well, if Ms. Molinaro would just  
17 note that for the record that Mr. Garrison is  
18 Respondent's primary attorney in the case. Okay?

19 MR. PRELLER: All right. Thank you.

20 JUDGE KEY: Are there any requests to order  
21 production of subpoenaed documents?

22 MR. JOHNSON: Yes, Your Honor. General Counsel  
23 would request production of subpoenaed materials.

24 MR. MORRIS: As with the Charging Party, Your  
25 Honor.

1 JUDGE KEY: Okay.

2 MR. GARRISON: As would Respondents.

3 JUDGE KEY: Okay. So let's start with the  
4 Respondent's request for subpoenaed documents. It's my  
5 understanding that there are no outstanding issues  
6 related to that, related to those documents; is that  
7 correct? Mr. Morris, are there any outstanding issues  
8 related to the -- it's my understanding from previous  
9 conference calls that there are no outstanding issues  
10 related to Respondent's request for production of  
11 documents; is that correct?

12 MR. MORRIS: As far as Respondent's request, I  
13 mean, we have uploaded what we have to the site, Your  
14 Honor, and...

15 JUDGE KEY: Okay. So there's no objection?  
16 There's no objection outstanding. I order production to  
17 the extent that it's already taken place. That's great,  
18 but I hereby order production of Respondent's subpoena  
19 to the union.

20 And because there was an outstanding issue on the  
21 case, I didn't write the subpoena number down.  
22 Respondent, do you have that in front of you right now,  
23 just so the record is clear when I've ordered production  
24 of just the subpoena that you issued?

25 MR. GARRISON: Just one moment, Your Honor. I can

1 have that up very quickly.

2 JUDGE KEY: We'll just go ahead and wait, just so  
3 that we do things one at a time. We're not in a big  
4 rush this morning.

5 MR. PRELLER: So.

6 MR. GARRISON: Alex, I have that. I can read that  
7 into the record. It's Subpoena B, dash, 1, dash,  
8 1GXKYYX.

9 MR. PRELLER: Brian, I believe that's the subpoena  
10 that was sent to counsel for the General Counsel.

11 MR. GARRISON: My apologies.

12 MR. PRELLER: We actually sent two. My mistake.  
13 We sent two subpoenas, one in the name of Falcon and one  
14 in the name of Ragle. The one you just read into the  
15 record was the one that was sent on behalf of Falcon.  
16 There was another one that was sent on behalf of Ragle.

17 JUDGE KEY: And just so -- as you state these, just  
18 so the record is clear, this is a subpoena issued by  
19 Respondent Falcon. Two subpoenas issued by Respondent  
20 Falcon and Respondent Ragle to the Charging Party Union,  
21 correct?

22 MR. PRELLER: Correct.

23 JUDGE KEY: And the subpoena numbers for those two  
24 subpoenas, please?

25 MR. PRELLER: Yes. So subpoena number one, which

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1 is the one that Brian just read, which is the subpoena  
2 issued by Falcon to the Union was B, dash, 1, dash,  
3 1GXKYYX and subpoena number two, which was issued by  
4 Ragle to the Union is B, dash, 1, dash, 1GXKNPD.

5 JUDGE KEY: All right. So I hereby order  
6 production of records responsive to those subpoenas.

7 Next, there was a subpoena issued by Respondent to  
8 the General Counsel; is that correct?

9 MR. JOHNSON: No, Your Honor...

10 JUDGE KEY: There was a subpoena issued by the  
11 Union to Respondent?

12 MR. MORRIS: That is correct.

13 JUDGE KEY: All right, and there are no issues  
14 related to that subpoena. That's my understanding so I  
15 will hereby order production of records responsive to  
16 that subpoena and Mr. Morris or Mr. Garrison or Mr.  
17 Preller, can you give us that subpoena number?

18 MR. PRELLER: I can provide that. That would be  
19 number B, dash, 1, dash, G49CIV.

20 JUDGE KEY: All right. So I hereby order  
21 production of records responsive to that subpoena issued  
22 by the Union to Respondent.

23 All right. Finally, there is an outstanding issue  
24 in relation to three subpoenas issued by General Counsel  
25 to Respondent Falcon and Respondent Ragle and the

1 subpoenas at issue are a subpoena issued, two subpoenas  
2 issued by Falcon Trucking B11GTVYOB and B1, dash,  
3 1GTWATJ and one issued by Respondent Ragle, issued to  
4 Respondent Ragle by General Counsel, B, dash, 1, dash,  
5 1GTWB1V.

6 It's my understanding that there were multiple  
7 issues raised in the motion, Respondent's Motion to  
8 Quash, but the only remaining issues that the parties  
9 have resolved the issues except with regard to the issue  
10 of the temporal scope of those subpoenas; is that  
11 correct, Respondent?

12 MR. GARRISON: That is correct, Your Honor.

13 JUDGE KEY: All right. Pursuant to Section  
14 102.31(b) of the Board's Rules and Regulations, I hereby  
15 deny Respondent's motion with respect to the three  
16 subpoenas and issues based on the temporal issue.

17 Section 11(1) of the Act provides that the Board  
18 shall revoke a subpoena only if the evidence sought does  
19 not relate to any matter under investigation or any  
20 matter in question in the proceedings. Subpoenaed  
21 information must be produced if the information sought  
22 is -- subpoenaed information must be produced if the  
23 information sought is relevant to an issue in the case.

24 The issue in this regard. I note the Boards and  
25 the Courts have interpreted the concept of relevance for

1 subpoenas quite broadly. That's a subpoena -- that  
2 subpoenaed information should be produced if it relates  
3 to any matter in question or if it can provide  
4 background information or lead to other evidence  
5 potentially relevant to an allegation in the case and I  
6 would cite *Perdue Farms* 323 and *NLRB* 345 at Page 348  
7 (1997).

8 Broadness alone is not sufficient justification to  
9 quash the subpoena. The question is not whether a  
10 subpoena is broad, but whether the request is  
11 unreasonably broad, *FTC v Texaco* 555 F. 2<sup>nd</sup> 862 at 882  
12 (D.C. Circuit 1977).

13 The burden to dodge compliance with a Board  
14 subpoena is not a meager one. Such a party must come  
15 forward with facts suggesting the subpoena is intended  
16 solely to serve purposes outside of the purview of the  
17 jurisdiction of the agency *NLRB v. Frazier* 966 F. 2<sup>nd</sup> 812  
18 at 819 (3<sup>rd</sup> Circuit 1992). I find Respondent has not met  
19 that burden.

20 I reject Respondent's argument that only records  
21 from January 1, 2013 to July 8, 2014 and January 27,  
22 2022 to present are relevant. On August 24<sup>th</sup>, 2022, the  
23 National Labor Relations issued an Order denying  
24 Respondent's Motion for Summary Judgment. GC Exhibit  
25 1(ddd), wherein the Board rejected Respondent's -- the

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1 premise of Respondent's arguments. I find the documents  
2 are relevant to whether or not Respondent breached the  
3 portion of the settlement agreement dated April 19,  
4 2016, wherein agreed to restore Falcon's operations as  
5 they existed prior to July 8<sup>th</sup>, 2014.

6 Falcon contends it completely discontinued  
7 operations by the end of 2016. Thus arguing that post  
8 2016 documents have no bearing. I reject this argument.  
9 First, I note that General Counsel disputes whether  
10 Falcon discontinued operation. Further -- General  
11 Counsel -- an issue relevant to the case is the type of  
12 work Ragle was performing post 2016, whether Ragle took  
13 over the operations of traditional Falcon work, whether  
14 Ragle purchased trucks, whether Ragle received profits  
15 from having subcontracted traditional Falcon work.

16 Falcon further contends the documents covering the  
17 period of July 2014 to the date it signed the settlement  
18 agreement are not relevant. I find the documents  
19 relevant and I order their production.

20 On April 16, 2016, Respondent agreed to resume  
21 Falcon Trucking's operations and the assignment  
22 practices for work previously performed by Falcon  
23 Trucking employees represented by the Union in order to  
24 restore Falcon Trucking as it existed prior to July  
25 2014.

1           The documents at issue relate to the question or  
2 may provide background information or lead to other  
3 relevant information. They related to what work was  
4 ongoing within Respondent's operation as of April 16<sup>th</sup>.

5           An issue in the case is what work had been awarded,  
6 bid or awarded, prior to April 16, 2016, who was  
7 performing the work and whether the work was being done  
8 by Ragle's employees or subcontracted.

9           The documents are relevant to whether or not such  
10 work was then returned to Falcon's employees.

11          Relevant to the issue in the case where the Falcon  
12 work went during the 20-month period between July 8<sup>th</sup>,  
13 2014 and April 16, 2016, whether it went to Ragle's  
14 employees or was subcontracted.

15          General Counsel needs to know if Ragle hired  
16 additional employees during those 20 months to perform  
17 Falcon work. If so, relevant issue is what happened to  
18 those employees after April 6<sup>th</sup>, 2016, where they retain  
19 that the scope of work that they performed changed after  
20 April 6<sup>th</sup>, 2016 or did it stay the same. Did it stop  
21 subcontracting with outside entities or transfer work to  
22 Ragle's employees or change its operations?

23          Finally, Respondent contends it went out of  
24 business in late 2016. Thus, the documents during those  
25 21-month periods are reasonable relevant to whether

1 Ragle and/or Falcon were winding up Falcon's operations  
2 during those 21 months.

3 Thus, I find the documents in the temporal scope  
4 covered by the documents in the three subpoenas to be  
5 relevant to issues in the case and I order their  
6 production.

7 Is there anything Respondent would like to put on  
8 the record in regard to my ruling?

9 Obviously, your response is covered in your Motion  
10 to Quash, but is there anything additional you'd like to  
11 put in the record?

12 MR. PRELLER: I would have one clarification  
13 question, just procedurally, which is that I believe  
14 that the actual formal papers for the Petition to Revoke  
15 and oppositioning and such do not become part of the  
16 formal record unless requested.

17 JUDGE KEY: That's right.

18 MR. PRELLER: So can we go ahead and make that  
19 request that our Petition to Revoke and Opposition be  
20 made part of the formal record?

21 JUDGE KEY: You can, and how we're going to do that  
22 is we're going to create -- just for the Court  
23 Reporter's clarification, we're going to just not to  
24 confuse the record. It will be just as much a part of  
25 the record as if it were a Respondent exhibit, but we're

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1 going to make a separate subpoena file and it's again  
2 just as much part of the record as any other document.  
3 It's just -- doesn't sort of clog the record.

4 MR. PRELLER: Yes.

5 JUDGE KEY: In terms of -- so let's go through and  
6 -- well, I think you're -- so why don't we do this? I  
7 think -- why don't we do this? Between now and the next  
8 time we resume -- I was going to just have you e-mail  
9 them, but I don't see any rush. We're all clear really  
10 on what those documents are going to be and if we have  
11 some discussions, we can address it at the start of the  
12 next hearing.

13 But I assume what those documents are going to be  
14 is the three subpoenas at issue that General Counsel  
15 issued to you. Then, you're going to introduce your  
16 Motion to Quash those subpoenas and General Counsel's  
17 opposition to your Motion to Quash; is that correct?

18 MR. PRELLER: That would be correct. Yes.

19 JUDGE KEY: All right. So if you'll just mark them  
20 as maybe subpoena -- you know, you're welcome to mark it  
21 Respondent Subpoena 1 or just Subpoena 1, Subpoena 2,  
22 Subpoena 3 and then, Ms. Molinaro, are you clear as to  
23 those exhibits and creating -- sort of how we would  
24 create a rejected. These aren't rejected, but it's sort  
25 of a separate folder for these files.

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1 COURT REPORTER: Perfect. No problem.

2 JUDGE KEY: Okay. Okay. All right. So let's --  
3 if you'll upload those to the SharePoint site and we'll  
4 actually introduce those at the start of the next  
5 hearing, just so that they're -- we can e-mail them all  
6 around and I can admit them, but I think it would be  
7 more efficient to admit them at the start of when we  
8 resume the hearing on October 11<sup>th</sup>. Okay?

9 MR. PRELLER: That's perfectly acceptable.

10 JUDGE KEY: And you are correct. They wouldn't  
11 become part of the record. You do need to move to admit  
12 them. Any objection to me admitting -- well, we'll  
13 address that -- go ahead and upload them and we'll  
14 address that at the start of the next hearing,

15 MR. PRELLER: Sounds good. Thank you.

16 JUDGE KEY: All right. Based on prior  
17 conversations with the parties, it's my understanding  
18 that the documents that I've ordered production of are  
19 voluminous in nature and would take a significant amount  
20 of time if Respondent produced, in boxes, the documents  
21 to General Counsel, that it would take a significant  
22 amount of time for counsel for the General Counsel to  
23 review the documents.

24 Further, the parties have indicated that it is  
25 their desire to work towards stipulations, work towards

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1 summaries of documents in order to shorten the time that  
2 is necessary for litigation and potentially shorten the  
3 need to call -- eliminate or shorten certain witnesses'  
4 testimony.

5 Is that correct, Counsel for General Counsel?

6 MR. JOHNSON: Yes, that's correct, Your Honor.

7 JUDGE KEY: And Respondent?

8 MR. PRELLER: Yes. That is correct.

9 JUDGE KEY: And the Union? Mr. Morris?

10 MR. MORRIS: Yes, Your Honor.

11 JUDGE KEY: All right. So it is my intent to  
12 recess today's hearing in order to give -- in order to  
13 allow -- so the parties can move forward with production  
14 of all of the subpoenaed documents and the parties can  
15 work towards potential Joint Exhibits, potential  
16 stipulations, and we have previously agreed that we will  
17 recess the hearing today and resume this hearing on  
18 Tuesday, October 11<sup>th</sup>, Wednesday, October 12<sup>th</sup>, and  
19 Thursday, October 13<sup>th</sup>, to the extent those three days  
20 are necessary.

21 But the hearing will resume on consecutive days  
22 after October 11<sup>th</sup>. We will again resume at 9 a.m.  
23 Eastern Standard Time.

24 Is there any objection to proceeding as such by  
25 Respondent?

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1 MR. GARRISON: No. No objection, Judge Key.

2 JUDGE KEY: Any objection from the Union, Mr.  
3 Morris?

4 MR. MORRIS: No, thank you, Your Honor.

5 JUDGE KEY: And any objection from Counsel for the  
6 General Counsel, Mr. Johnson?

7 MR. JOHNSON: No, Your Honor.

8 JUDGE KEY: All right. Are there any other issues  
9 the parties would like to discuss before I recess the  
10 hearing?

11 MR. JOHNSON: Nothing from the General Counsel,  
12 Your Honor.

13 MR. MORRIS: Nothing from the Charging Party.

14 MR. PRELLER: From Respondents, since the ball was  
15 in our court as to production, we thought it would be  
16 helpful to put some of our intention on the record prior  
17 to the October 11<sup>th</sup> resuming for what our goals are in  
18 terms of production.

19 We have an initial production of documents ready,  
20 based on anticipation of your ruling, Judge Key. The  
21 major issue that's outstanding is the voluminous  
22 component, which is contract related documents. We have  
23 reached an agreement with General Counsel that we also  
24 understand is generally agreeable to the Union as it  
25 relates to narrowing the scope of that request as to

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1    which contracts are at issue and which documents will be  
2    produced and we have a plan in place for so identifying  
3    which documents they are.

4           At this point, and this will be indicated in the  
5    production today, we believe we are something in the  
6    neighborhood of 120 relevant contracts based upon these  
7    subpoenas, from which we will identify contract word  
8    components to show that this work was in fact awarded to  
9    Ragle and then, various DBE requirements. Meaning that  
10   these are business enterprises that are owned by  
11   disadvantaged minority, women, or veterans owned  
12   businesses, which are imposed as part of the contract  
13   bid process, and Ragle's efforts to meet DBE  
14   requirements, including if we have any DBE  
15   certifications and leases and things of that nature.

16           So we are still -- that is the process with the  
17   General Counsel. We are continuing to work through  
18   exactly which contracts are relevant, but that is the  
19   universe and we are going to continue endeavoring to  
20   comply with our subpoena requirements in good faith as  
21   soon as possible.

22           JUDGE KEY: All right. So and I guess I'll just  
23   state that I've ordered production of documents  
24   requested by the subpoenas and I will leave it to the  
25   parties to reach any agreements they can to narrow the

1 scope of the documents, but I will simply state that  
2 there is an objection absent agreement by the parties to  
3 produce all documents requested by the subpoenas at  
4 issue.

5 Mr. Johnson, again, do you have any response to  
6 this or do you want to simply see what's produced before  
7 making any response?

8 MR. JOHNSON: The latter, Your Honor. I mean, I  
9 think we have a plan in place. It sounds workable, but,  
10 again, sort of reserve the right, depending on what's  
11 produced, if there aren't issues, then of course, we can  
12 raise them. Even when we resume or even beforehand, we  
13 can raise those issues, you know, off the record if we  
14 need to.

15 But yeah, I think at this point, we have a plan in  
16 place and it sounds like it should be workable, so.

17 JUDGE KEY: All right. Anything, Mr. Morris, that  
18 you'd like to add to our discussion in relation to the  
19 subpoenaed documents or any other issue?

20 MR. MORRIS: Thank you, Your Honor.

21 Likewise, General Counsel, however, Your Honor,  
22 it's unclear to us and hopefully, it'll become clear on  
23 the production as to the filtering process the company  
24 is using to ascertain which documents will be produced.

25 There's been some indication there's selection

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1 based on geography and such, but we are hopeful there  
2 won't be any issues once we get the production, but we  
3 obviously need to wait and see. Thank you.

4 JUDGE KEY: Okay. I'm going to raise one other  
5 issue.

6 This case is in great part going to be determined  
7 and the factual allegations will in great part rest on  
8 what documents, what the documents show, in terms of  
9 business operations and as the parties are reviewing the  
10 subpoenaed documents and for the first time, Respondent  
11 or General Counsel and the Union seeing the evidence  
12 that exists in the case, I would encourage all the  
13 parties to keep settlement, not just in the back of  
14 their mind, but at the forefront of the mind. You're  
15 now going to see the documents as to what work existed  
16 prior, what work went on after, what was restored, and I  
17 think you'll have a clear picture of the strength or  
18 weakness of the party's case. I mean, of parties'  
19 positions.

20 So I would encourage you to keep an open mind about  
21 settlement during, as you review the documents. As  
22 we've discussed, this is for Respondent -- well, I think  
23 I would just encourage -- everybody knows when a case is  
24 litigated, there are risk for all parties and so I would  
25 ask that you consider settlement as you review the

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1 documents and are better able to assess the strengths of  
2 your clients' cases. Okay?

3 All right. So I having ordered production of  
4 subpoenaed documents, I am going to recess this hearing.  
5 The record having opened, I've now taken jurisdiction of  
6 the case, but the case will be in recess until Tuesday,  
7 October 11<sup>th</sup> at 9 a.m. Eastern Standard Time. If the  
8 parties need to reach out to me for a conference call or  
9 discussions between now and then, please, obviously,  
10 communicate with all the parties.

11 At this point, I am going to recess -- put the  
12 hearing in recess and go off the record.

13 *[Off the record]*

14 ***[Whereupon, the hearing was recessed at 9:33 a.m.,***  
15 ***to resume proceedings at 9:00 a.m. on Tuesday, October***  
16 ***11, 2022.]***

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**CERTIFICATION**

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), in the matter of **Falcon Trucking, LLC, and Ragle, Inc. a single Employer and/or Joint Employers and Chauffeurs, Teamsters and Helpers, Local Union No. 215 A/W International Brotherhood of Teamsters, Case Nos. 25-CA-132518, 25-CA-135316, 25-CA-135335, and 25-CA-159531**, on Wednesday the 21st of September, 2022, was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the recording, at the hearing, that the exhibits are complete and no exhibits received in evidence or in the rejected exhibit files are missing.

Jennifer Molinaro, Official Reporter

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OFFICIAL REPORT OF PROCEEDINGS  
BEFORE THE  
NATIONAL LABOR RELATIONS BOARD

---

In the Matter of:

Case Nos. 25-CA-132518, 25-CA-135316, 25-CA-135335 &  
25-CA-159531

FALCON TRUCKING, LLC and RAGLE, INC., A SINGLE  
EMPLOYER and/or JOINT EMPLOYERS,

Respondent,

and

CHAUFFEURS, TEAMSTERS AND HELPERS, LOCAL UNION NO.  
215 A/W INTERNATIONAL BROTHERHOOD OF TEAMSTERS,

Charging Party.

Place: Zoom  
Date: October 11, 2022  
Pages: 27 through 251  
Volume: 2 of 2

OFFICIAL REPORTERS

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1 UNITED STATES OF AMERICA  
2 BEFORE THE NATIONAL LABOR RELATIONS BOARD  
3 REGION 25  
4

5 In the Matter of:

6  
7 FALCON TRUCKING, LLC and  
8 RAGLE, INC., A SINGLE EMPLOYER  
9 and/or JOINT EMPLOYERS,

10  
11  
12 and

13  
14  
15 CHAUFFEURS, TEAMSTERS AND  
16 HELPERS, LOCAL UNION NO. 215 A/W  
17 INTERNATIONAL BROTHERHOOD OF  
18 TEAMSTERS.

Case No. 25-CA-132518  
25-CA-135316  
25-CA-135335  
25-CA-159531

19  
20 The above-titled matter came on for further  
21 hearing pursuant to adjournment, before the HONORABLE  
22 CHRISTAL J. KEY, Administrative Law Judge, held via  
23 Zoom, on Tuesday, the 11<sup>st</sup> day of October 2022, at 9:24  
24 a.m. EST.  
25

**A P P E A R A N C E S**

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(Continued)

**A P P E A R A N C E S**

(Continued)

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3							
4							
5							
6							
7	KENNETH SLAUGHTER	45	63	68	78	72	
8		71					
9							
10	MICHAEL SACHS	82	97	102			
11		94		103			
12							
13	EARL BROWN	106					
14							
15	SAM RAGLE	138	154	178	181	185	
16			165	186	184		
17							
18	SCOTT YORK	187	217				207
19		215					
20							
21	SAM RAGLE	240	241				
22	(recalled)						
23							
24							
25							

<u>E X H I B I T S</u>			
<u>EXHIBITS</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>	
GENERAL COUNSEL			
2	36	37	
JOINT			
1	36	36	
RESPONDENT'S			
1 - 32	38	41	
33	101	101	
100-205	38	41	
CHARING PARTY			
1A	111	129	
1B	112	130	
1C	113	124	REJECTED
1D	114	130	
1E	114	130	

1		<b><u>E X H I B I T S</u></b>	(Cont'd)	
2				
3	<b><u>EXHIBITS</u></b>	<b><u>FOR IDENTIFICATION</u></b>	<b><u>IN EVIDENCE</u></b>	
4				
5	CHARING PARTY			
6				
7	1F	115		130
8	1G	115		130
9	1H	116		131
10	1I	116	REJECTED	131
11	1J	117	REJECTED	125
12	1K	118		132
13	1L	119		132
14	2	107		W/D
15	3	108		109
16	4	120	REJECTED	136
17				
18	SUBPOENA			
19				
20	1	247		248
21	2	247		248
22	3	247		248
23				
24				
25				

P R O C E E D I N G S

*[9:24 a.m. Eastern]*

1 JUDGE CHRISTAL J. KEY: Let's go on the record,  
2 please. The hearing will now come to order. This is a  
3 resumption of the formal trial before the National Labor  
4 Relations Board in Falcon -- in Falcon Trucking, LLC and  
5 Ragle, Inc., a single employer and/or a joint employer.  
6 Cases 25-CA-132518, 25-CA-135316, 25-CA-135335 and 15 --  
7 and 25-CA-159531.

8 Administrative Law Judge Christal Key presiding.  
9 Counsel, will you please state your appearances for  
10 the record.

11 MR. JOHNSON: Derek Johnson, for the General  
12 Counsel.

13 MR. MORRIS: Samuel Morris for the Charging Party.

14 MR. GARRISON: Brian Garrison for the Respondent.

15 MR. PRELLER: Alexander Preller for the Respondent.

16 JUDGE KEY: This hearing is being conducted by Zoom  
17 video on the Zoom for Government platform because of the  
18 compelling circumstances presented by the COVID-19  
19 pandemic.

20 I have provided guidelines and instructions to the  
21 party of how we will conduct the hearing and I would  
22 appreciate everyone's professionalism and patience with  
23 the video format.

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1        Anyone observing the hearing is welcome to do so,  
2        but must keep their audio muted and their video feed  
3        turned off at all times. Informed by the Board Rule 1  
4        -- 102.35 (c)(2), the Board's decision in *William*  
5        *Beaumont Hospital*, 370 N.L.R.B 9, I am implementing the  
6        following appropriate safeguards in connection with the  
7        video hearing.

8        I will ensure -- we will ensure that the hearing  
9        reporter and all participants are able to hear and  
10       observe each witness who testifies. Upon request we  
11       will adjust the camera view as needed to provide close  
12       up or panoramic views of the witnesses and the room  
13       where the witnesses located.

14       We will ensure that I, the hearing reporter and the  
15       witnesses all -- and all participants have timely access  
16       to exhibits that are used and that the witnesses -- in  
17       the witness' examination. And if we have -- and we have  
18       access to Agency staff who can assist with technical  
19       difficulties that may arise during the hearing.

20       I've previously requested if anyone has any  
21       objection to the video trial format and it's my  
22       understanding that there's no objection. Does anyone  
23       raise an objection?

24       Hearing none --

25       MR. MORRIS: No, Your Honor.

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1 JUDGE KEY: Hearing none, we will move forward with  
2 the hearing via video.

3 We've previously discussed settlement, I'm not  
4 going to really say anything more, but if at any time  
5 during the hearing someone wishes to -- wishes a recess  
6 to discuss settlement, you're welcome to ask me and I  
7 will grant a recess.

8 The -- there's currently a motion pending before me  
9 to strike Respondent's Answer, which I view as  
10 premature. If I find that the Employer breached the  
11 settlement agreement I will strike the Answer as part of  
12 my decision.

13 Are there any other preliminary motions? I know we  
14 have some documents that we're going to introduce, but  
15 are there any other preliminary issues anyone wants to  
16 raise on the record?

17 MR. JOHNSON: Nothing from General Counsel, Your  
18 Honor.

19 JUDGE KEY: Any from Respondent?

20 MR. GARRISON: Nothing from Respondent, Your Honor.

21 JUDGE KEY: And any from the Union?

22 MR. MORRIS: No, Your Honor, thank you.

23 JUDGE KEY: All right. It's my understanding that  
24 there is a Joint Exhibit. Would someone please move  
25 forward with requesting its submission.

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1           MR. GARRISON: Your Honor, this is Brian Garrison,  
2 Counsel for Respondent. We will move for the admission  
3 of Joint Exhibit 1 which is the stipulation that has  
4 been entered into the SharePoint file.

5           **(Joint Exhibit 1 is marked for identification.)**

6           JUDGE KEY: Any objection to Joint Exhibit 1 from  
7 Counsel for the General Counsel?

8           MR. JOHNSON: No, Your Honor.

9           JUDGE KEY: From Counsel for the Charging Party?

10          MR. MORRIS: No thank you, Your Honor.

11          JUDGE KEY: I hereby admit Joint Exhibit 1.

12          **(Joint Exhibit 1 received into evidence.)**

13          JUDGE KEY: Ms. Molinaro, are you able to -- do you  
14 identify the Joint -- the stipulation which is Joint  
15 Exhibit 1?

16          COURT REPORTER: Yes, I do.

17          JUDGE KEY: Counsel for the General Counsel do you  
18 have any documents you wish to offer into admission at  
19 this time?

20          MR. JOHNSON: Yes, Your Honor. General Counsel  
21 would move General Counsel's Exhibit 2.

22          **(General Counsel's Exhibit 2 is marked for**  
23 **identification.)**

24          MR. JOHNSON: It's payroll records. Just by way of  
25 description, its payroll records from 2013 up through

1 about -- through the end of 2016 for Falcon Trucking.

2 As best as those records existed that were produced  
3 pursuant to the subpoena, they should be in  
4 chronological order and reflect the check register  
5 showing the payment for hours. And then typically the  
6 second page for the same time period is a time card list  
7 that shows the number of hours for each employee that  
8 was employed during that pay period.

9 I -- I will note again, not a -- not a dispute  
10 about how the records were produced but there are some  
11 papers which no records were available so there may be a  
12 few gaps there. There's not many but there are a few  
13 gaps that -- that may appear in the exhibit just as  
14 somebody's going through that, Your Honor.

15 But we move General Counsel Exhibit 2.

16 JUDGE KEY: Any objection from the Charging Party?

17 MR. MORRIS: No, Your Honor.

18 JUDGE KEY: And from Respondent?

19 MR. GARRISON: No objection, Your Honor.

20 **(General Counsel's Exhibit 2 received into evidence.)**

21 JUDGE KEY: Mr. Johnson, just I wanted to decide  
22 how much time I want to spend understanding the document  
23 so later when I'm reviewing the document, I have a clear  
24 understanding.

25 Is there going to be any further testimony during

1 the hearing related to the document?

2 MR. JOHNSON: I don't believe so, Your Honor. I  
3 think the -- for the most part the document speaks for  
4 itself. I mean, the -- for example, you know, there's a  
5 check date on -- on the check register page. The time  
6 card dates have similar dates to reflect the pay period  
7 in which the hours were earned.

8 So again it's certainly not a day by day breakdown  
9 for the most part, but it does have roughly a weekly  
10 breakdown. So I think the documents are fairly clear in  
11 terms of what they reflect.

12 And again, they were produced by Respondents so I  
13 assume they're accurate in terms of dates for pay  
14 periods and that sort of thing. So, you know, so I  
15 don't have any planned questions, you know, depending on  
16 what happens I may I ask some key follow up questions  
17 but I think the document itself is fairly clear --

18 JUDGE KEY: Okay.

19 MR. JOHNSON: -- what it entails.

20 JUDGE KEY: All right. Thank you. And it's my  
21 understanding that Respondent has exhibits that it would  
22 like to offer into evidence?

23 MR. GARRISON: Yes, that's correct, Judge Key. At  
24 this time Respondent would offer Exhibits 1 through 32  
25 and 100 through 205.

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1 (Respondent's Exhibits 1 through 32 and 100 through 205  
2 is marked for identification.)

3 JUDGE KEY: Any objection from Counsel for the  
4 General Counsel?

5 MR. JOHNSON: No objection, Your Honor. Although I  
6 would not -- I probably should have said this off the  
7 record, but I know we've had discussions prior with  
8 Respondent's Counsel, that there may be some  
9 clarification that's needed on for example Respondent's  
10 Exhibit 31 and 32 which are the summaries of the  
11 underlying records.

12 So we -- I assume at some point we may need a  
13 little bit of a clarification on what some of those  
14 descriptions are, how those documents were prepared, but  
15 in terms of the document itself I have no objection.

16 JUDGE KEY: All right. Do you anticipate offering  
17 a fuller description during the hearing related to  
18 Respondent Exhibit 31 and 32?

19 MR. GARRISON: Yes, we do, Judge. Although, we do  
20 submit the vast majority of that document does speak for  
21 itself in terms of what it represents. We do have a  
22 witness that we expect will explain exactly what the  
23 various categories of information.

24 JUDGE KEY: All right. And Mr. Johnson will have  
25 an opportunity to question that witness with respect to

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1 any -- any question.

2 Mr. Johnson, are you comfortable that in light of  
3 that representation you will have adequate opportunity  
4 to address your -- your -- the things you need  
5 clarified?

6 MR. JOHNSON: Yes, Your Honor. That will be fine.

7 JUDGE KEY: All right. I think I asked but Mr.  
8 Morris, any objection to Respondent's Exhibit 1 through  
9 32 or 100 through 205?

10 MR. MORRIS: No, Your Honor. We don't object to  
11 the authenticity, you know, but we believe some of these  
12 are -- documents are marginal relevance to the issues at  
13 hand. We trust you to sort through them, so no  
14 objection.

15 JUDGE KEY: Well, and so -- so if you have -- the  
16 purpose is not to deny someone the opportunity -- if you  
17 have an objection with regard to relevance I'm happy to  
18 take up that objection. So because in admitting them,  
19 I'm admitting them into evidence.

20 So are there any of the exhibits that you wish not  
21 to -- that you object to based on relevance?

22 MR. MORRIS: No, Your Honor, will be arguing on  
23 brief as to --

24 JUDGE KEY: The weight?

25 MR. MORRIS: To what -- the weight, to what extent

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1 these, like I said, these documents even -- even come  
2 close to addressing the issues at hand. But I don't  
3 think we'll need to register an objection at this time.

4 JUDGE KEY: All right. So I'm going to admit  
5 Respondent's Exhibit 1 through 32 and Respondent's  
6 Exhibit 100 through 205.

7 **(Respondent's Exhibits 1 - 32 and 100 - 205 received**  
8 **into evidence.)**

9 JUDGE KEY: The Union previously requested that I  
10 issue a Sequestration Order so I'm going to move forward  
11 with a Sequestration Order.

12 I'm issuing a Sequestration Order in this case.  
13 This means that anyone who is expected -- who expects to  
14 be a witness will need to remain outside the courtroom  
15 while the hearing is in session.

16 In addition, in order -- in addition the Order  
17 prohibits witnesses from discussing their past testimony  
18 with any other possible witness and also prohibits  
19 Counsel from telling one witness about the testimony of  
20 another witness.

21 There are a few exceptions to those rules. First,  
22 each party may identify someone who may sit in the  
23 courtroom because that person is essential to assisting  
24 the party in presenting their case. Second, witnesses  
25 who are alleged discriminatees in this case may stay in

1 the courtroom at all times except when another witness  
2 for General Counsel or the Charging Party is testifying  
3 about the same events that the alleged discriminatee  
4 will address when he or she testifies.

5 Third, if Counsel is preparing rebuttal testimony,  
6 Counsel may tell his or her own witness about the  
7 testimony given by the opponents -- by the opposing  
8 party's witnesses. Counsel are responsible for ensuring  
9 that they and their witnesses comply with the Order.

10 Mr. Garrison, does the Respondent wish to designate  
11 a representative to participate in the hearing?

12 MR. GARRISON: Yes, we do, Judge. Can you just  
13 give me a moment so I can confirm with my client and  
14 we'll do that here in just a second.

15 JUDGE KEY: Sure, sure.

16 *[Long pause]*

17 MR. GARRISON: Judge, do you -- we'll designate Sam  
18 Ragle as the corporate representative for Respondent.

19 JUDGE KEY: All right. And does the Union wish to  
20 designate a representative?

21 MR. MORRIS: Yes, Your Honor. It's Earl Brown,  
22 vice president as agent Teamsters Local 215. He's on  
23 the screen labeled Local 215.

24 JUDGE KEY: Okay. And Mr. Johnson, do you wish to  
25 designate any representative?

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1 MR. JOHNSON: No, Your Honor.

2 JUDGE KEY: All right. So have all other  
3 individuals who are present, who may have been present  
4 with Counsel left the room?

5 MR. GARRISON: Yes, Your Honor.

6 JUDGE KEY: All right. Do any of the parties wish  
7 to make an opening statement in this case, Mr. Johnson?

8 MR. JOHNSON: I'd say from the General Counsel's  
9 perspective I think -- I think Your Honor has a fairly  
10 good feel for the case, you know, from the extensive  
11 pleadings and history in this case.

12 Again, it's a fairly limited question as set by the  
13 Board in the Board's Order that were addressing today.  
14 So I think it's -- I think that's a fairly clear what  
15 the scope of the hearing is and --

16 JUDGE KEY: Would the Charging Party wish to make  
17 an opening statement?

18 MR. MORRIS: Your Honor, we agree with the General  
19 Counsel, we're okay to proceed without.

20 JUDGE KEY: And Respondent?

21 MR. GARRISON: Judge Key, I would like to confer  
22 with my client briefly.

23 JUDGE KEY: Sure.

24 *[Long pause]*

25 MR. GARRISON: Thank you, Judge. We appreciate

1 that. We will follow -- follow the leader, Counsel for  
2 the General Counsel and the Charging Party, we will not  
3 issue an open statement either.

4 JUDGE KEY: All right. So just -- obviously I  
5 think all the parties are clear. But the -- the issue  
6 in this case is limited to whether or not Falcon  
7 complied with its obligation under the Settlement  
8 Agreement relating to resuming Falcon's operations and  
9 assignment practices for work previously performed by  
10 Falcon employees represented by the Union in order to  
11 restore Falcon as it existed prior to July 8, 2014.

12 Are we all in agreement?

13 MR. JOHNSON: Yes, Your Honor.

14 MR. MORRIS: Yes, Your Honor.

15 MR. GARRISON: And yes, Your Honor.

16 JUDGE KEY: All right. Counsel, are you prepared  
17 to call your first witness?

18 MR. JOHNSON: Yes, Your Honor. Can we just go off  
19 the record to get everything set up and make sure  
20 they're ready to go?

21 JUDGE KEY: Sure. It is 8:41, we will be in  
22 recess. Why don't we -- we will be in recess until,  
23 I'll give you until 8:50, or excuse me, 8:50 A.M., 9:50  
24 A.M. Eastern Time, is that -- is that sufficient time?

25 MR. JOHNSON: Yeah, that should be fine, Your

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1 Honor.

2 JUDGE KEY: All right.

3 [Off the record]

4 JUDGE KEY: Mr. Johnson, please call your first  
5 witness.

6 MR. JOHNSON: Yes, Your Honor. General Counsel  
7 calls Kenny Slaughter to testify.

8 JUDGE KEY: Mr. Slaughter, will you please raise  
9 your right hand.

10 (Whereupon,

11 **KENNETH SLAUGHTER**

12 having been sworn/affirmed, was called as a witness  
13 herein, and was examined and testified via video-  
14 conference, as follows:)

15 JUDGE KEY: Mr. Slaughter, would you please spell  
16 your name for the record?

17 MR. SLAUGHTER: Kenneth, K-E-N-N-E-T-H, R.,  
18 Slaughter, S-L-A-U-G-H-T-E-R.

19 JUDGE KEY: Go ahead, Mr. Johnson.

20 MR. JOHNSON: All right. Thank you.

21 DIRECT EXAMINATION

22 Q. BY MR. JOHNSON: And Mr. Slaughter, first I want to  
23 confirm, you were issued a subpoena to appear here  
24 today; is that correct?

25 A. Yes, sir.

1 Q. And are you currently a member of the Union?

2 A. No. No, sir.

3 Q. Are you familiar with Falcon Trucking?

4 A. Yes, sir. I used to work there.

5 Q. And when did you start working at Falcon?

6 A. I really can't say for sure.

7 Q. Well, let's --

8 A. 2014.

9 Q. Let me ask, how long did you work at Falcon?

10 A. About six years or so. Around about six years or  
11 better.

12 Q. And what was your job at Falcon?

13 A. Driving a dump truck, tri-axle or single axle, I  
14 drove a long -- not a long wrecker, 18 wheeler too.

15 COURT RECORDER: Can you keep your voice up when  
16 you speak, please?

17 THE WITNESS: Yes, ma'am. Sorry.

18 JUDGE KEY: So I heard you say you drove a tri-  
19 axle, a single axle and then I couldn't hear what else  
20 you said you drove.

21 THE WITNESS: I drove an 18 Wheeler, flat bed. 18  
22 wheeler, it was a regular truck.

23 Q. BY MR. JOHNSON: Okay. So -- so let me go through  
24 -- so the 18 wheel -- the flat bled was a regular  
25 vehicle?

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1 A. Yes, sir.

2 Q. Okay. And what about the, working backwards, you  
3 said -- what about the single axle, who -- who owned  
4 that vehicle?

5 A. It was -- it was actually a regular truck but it  
6 was one of his first ones I guess he had acquired. I  
7 just drove it every now and then -- till it -- till it  
8 broke. I guess it broke down. But I had a single -- it  
9 was a single axle flatbed too that I drove. That I  
10 drove also.

11 Q. Okay. So the -- so there were two different single  
12 axle vehicles. There was single axle flatbed; is that  
13 right?

14 A. Yeah. It was like a delivery truck, delivery parts  
15 and such.

16 Q. Okay. And what was the other -- what was the other  
17 single axle vehicle?

18 A. It was a little red dump truck they had. I think  
19 it was a single axle. It might have been -- it might  
20 have been two axles, tandem. I don't know, it's one of  
21 them two.

22 Q. And then the tri-axle who -- who owned that  
23 vehicle, if you know?

24 A. That -- that was Falcon. Falcon Trucks. They also  
25 had a quad I drove every now and then.

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1 Q. And I guess -- I guess just to kind of help clarify  
2 for the record, can you explain what the difference is  
3 between a quad and a tri-axle and -- you said a tandem  
4 or a two axle?

5 A. Well a quad has got four axles. It actually has  
6 two axles and then they've got two of them that drop  
7 down so you can carry more weight. Just like a tri-axle  
8 has got two axles with a drop back so that -- so you  
9 have more weight. And like I say, a tandem you can only  
10 carry so much weight, like 14,000 pounds, something like  
11 that exactly. I'm not exactly sure. And then they've  
12 got the single axle, you can only put so much weight on  
13 it.

14 Q. And I guess so with the exception of the flatbeds  
15 that you've described, the -- the other vehicles, the  
16 quad, the tri-axle, the dual or tandem, these would be  
17 what we would commonly -- just most people would refer  
18 to them as dump trucks; is that correct?

19 A. Correct. Correct.

20 Q. Now you've -- you've mentioned Ragle, how are --  
21 how are you familiar with Ragle?

22 A. Well, I worked there at first and then Troy Ragle  
23 hired me to drive the Falcon trucks, right there -- it's  
24 the Ragle, on Vann, Vann Avenue in Newburgh or Newburgh.

25 Q. I'm sorry, you need to -- could you speak up a

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1 little bit there, we lost you in the last part. So you  
2 said --

3 A. I got hired by Troy Ragle to drive the Falcon  
4 trucks when I first got hired over to Ragle [inaudible].

5 Q. And who is -- who is Troy Ragle then?

6 A. It's the son of Sam, there's a -- there's Jason and  
7 there's Troy that run -- they run I guess Ragle  
8 Construction, or part of it or something.

9 Q. And I guess just so we understand, were you --  
10 where you actually hired to work at Ragle or were you  
11 hired to work at Falcon?

12 A. Well, I drove the Falcon trucks at that time but we  
13 worked on Regal jobs, other jobs as well.

14 Q. Let me -- who did you receive your paycheck from?

15 A. Well, it said Falcon on it. On -- on the check so  
16 but either I think Troy Ragle's signature was on it when  
17 I first started. I don't know after that whose  
18 signature was on it.

19 Q. Okay. So we obviously mentioned some of the  
20 different trucks or vehicles that you drove, what type  
21 of work -- what kind of jobs did you work on?

22 A. Construction.

23 Q. Can you -- I mean, is that -- I know construction  
24 is a pretty broad term, are there -- were there --

25 A. Like a --

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1 Q. -- are we talking large construction, small  
2 projects like in a home or what --

3 A. We did like bridges and like we did bridges in  
4 Louisville, we did the bridges out by Angola and some of  
5 sewer work and stuff like that.

6 Q. I'm sorry, what was that last one?

7 A. Sewers, do sewers like piping you know. By the  
8 river [inaudible].

9 Q. Okay. And if you know, I mean, who -- was Falcon  
10 the general contractor on these projects or was Falcon  
11 working for somebody else on these projects?

12 A. Other people would hire Falcon to do the jobs.

13 Q. And from what you -- from what you understood and  
14 your experience, was there a primary customer that  
15 Falcon had?

16 A. I would say Ragle was the biggest one.

17 Q. Just can you put a percentage on? I mean, are we  
18 talking roughly 50/50, Ragle and other projects or was  
19 that more than that, less than that?

20 A. I would say with RiverTown and Ragle 80 percent.

21 Q. Okay. And what's RiverTown?

22 A. They do concrete work for -- actually the same --  
23 the same yard as the Ragle itself. They do like  
24 sidewalks and parking lots, stuff like that.

25 Q. And I guess when you say the same yard, you mean

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1 the location where, you know, that's where their  
2 headquarters is?

3 A. Yes. The same building as far as office people and  
4 the yard goes out and they got -- that part of it is  
5 over here and the Falcon Trucking was over on this side.  
6 And the Ragle was kind of like in the middle I guess  
7 you'd say.

8 Q. Okay. And so let me ask, how -- how did you get  
9 your job assignments or how did you know which -- what  
10 projects to do?

11 A. Well, at first Troy would tell us and then we had  
12 another dispatcher named L.B. and then he quit or got  
13 fired. And it was Austin Underhill. After they got --  
14 he got rid of him, it was Dee Watson. Ragle sometimes  
15 we do it. And then for a little while Brian Ray from  
16 Milestone came over was dispatching the Milestone trucks  
17 and the Falcon trucks. And that would be Dee Watson  
18 right before we signed -- voted the Union in.

19 MR. MORRIS: Ms. Molinaro, are you getting this  
20 okay? It's a little --

21 COURT REPORTER: Yes.

22 MR. MORRIS: -- you need to speak up.

23 COURT REPORTER: Can -- where is your microphone?

24 THE WITNESS: It's right here should I bring it  
25 over a little closer to me?

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1 COURT REPORTER: Yes.

2 THE WITNESS: Is that better?

3 COURT REPORTER: Maybe.

4 THE WITNESS: I'm sorry. I just talked a little --  
5 I lost a little bit of my hearing and I'm thinking I'm  
6 talking really loud.

7 COURT REPORTER: Actually that -- that is better.  
8 That's perfect.

9 THE WITNESS: Okay.

10 Q. BY MR. JOHNSON: And -- and you're not talking too  
11 quiet so feel free to speak up. You -- you're actually  
12 --

13 A. Sorry. I didn't want to talk too -- too loudly.

14 Q. No, you are -- yeah.

15 A. It sounds like it's really echoing in my head.

16 Q. No, keep your -- keep your voice up because it is a  
17 little hard to hear you, so.

18 A. Okay. All right.

19 Q. So -- so I guess let me kind of work backwards from  
20 what you -- I think, so you said Brian Ray worked for,  
21 did you say Milestone?

22 A. Yeah, he worked for Milestone.

23 Q. And what's Milestone?

24 A. It was a trucking company that -- two cops in  
25 Evansville, two police officers. And Brian Ray

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1   evidentially had worked for Ragle before at one time and  
2   so he come and was dispatching the Milestone trucks and  
3   the Falcon trucks.

4           And he was doing the -- I think it was 261 there in  
5   the Newburgh and he was doing -- at the same time he was  
6   doing the levy off Waterworks Road.

7   Q.   And when you say 261, that's a -- that's a highway  
8   -- a local highway; is that correct?

9   A.   Yes. Yes, yes. The -- well, it was two lanes and  
10   they widened it out to four right there in Newburgh.

11   Q.   Okay. And then you mentioned Dee Watson, who did  
12   you say Dee worked for?

13   A.   Dee was working for -- he was the lowboy driver,  
14   delivered all the equipment and he was our dispatcher  
15   after Brian Ray -- they had got rid of Brian Ray or  
16   whatever, I don't know what they did with him, I guess  
17   he's gone so I assumed they got rid of him.

18   Q.   And -- and when you say he was the lowboy driver  
19   and then kind of turned into a dispatcher, who did --  
20   who did he work for?

21   A.   Ragle.

22   Q.   And then --

23   A.   He worked for Ragle.

24   Q.   And then again kind of working backwards, you  
25   mentioned an Austin Underhill and a L.B. and who -- who

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1 did those individuals work for?

2 A. Well, they were for Falcon I guess because they  
3 drove trucks, 18 wheel -- or they drove the -- the tri-  
4 axles and the quads just like I did.

5 Q. Okay.

6 A. At that time.

7 Q. And I guess I -- so you had these projects you're  
8 working on, construction projects, if you could just  
9 kind of described for us. I know you drive a dump  
10 truck, but what -- what is your role in that dump truck?  
11 What is it that you would do?

12 A. Okay. Like there in Booneville, okay, we'd take a  
13 -- it's almost like 50 loads a day we take out of this  
14 one field, take it over Fayetteville and dump it so they  
15 could raise the road up. Because they was widening it  
16 to Booneville, you know, to make it four lanes right  
17 there. So it was two lane and that's a terrible road  
18 back from where they started. We do that six days a  
19 week till we got that all up. We'd haul rock in there  
20 or we take the old road, get rid of it, dump it and we'd  
21 dump it back in the yard coming off of 61, coming up  
22 Vann Road the back way and dump it there at the Ragle  
23 yard. Go back and get another load, bring it back there  
24 or we'd go to the rock yard, Moziers and haul rock back  
25 to where they needed it.

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1 Q. So was most of your day back and forth between job  
2 site and either the yard or someplace where you're  
3 picking up materials?

4 A. Yes, yes. Most of the day, yeah. Sometimes we  
5 just worked on the job itself, you know, like right  
6 there. At that time it was actually the guy Underhill,  
7 I talked to Troy, and we was getting like, it's like \$41  
8 an hour because that was a union steel job through  
9 there. They was actually paying -- paying us pretty  
10 good money right there.

11 Q. So I guess so I understand what -- if you were  
12 working just on the job itself, what -- what would you  
13 be doing in -- in that case?

14 A. Yeah. It was like hauling the dirt from one spot  
15 to the other, but we wasn't leaving the at the job site.

16 Q. Okay. And who was your supervisor?

17 A. Well, it would have to be Dee because he was the  
18 one or Austin -- Austin, whoever was dispatching for us  
19 was our supervisor. Or when we worked for like -- okay,  
20 like the Booneville they had supervisor there, I believe  
21 it was Jason Ragle, you know. And then we had -- I had  
22 an old guy named Chris Shelton who was -- when we was  
23 dumping the dirt, him and this guy named George that was  
24 a laborer I guess, and he'd tell us where to dump the  
25 dirt.

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1 Q. So would these be Falcon employees or somebody  
2 else?

3 A. They were Ragle employees but they're just  
4 supervisors that worked the job certain areas of the  
5 job. They'd be a supervisor for this one, there's maybe  
6 a supervisor down there that you could talk to or -- or  
7 a machine operator that was running the -- either  
8 running a backhoe or running the bulldozer to push the  
9 dirt basically yeah.

10 Q. All right. And just because the Board has a legal  
11 definition of a supervisor, I just want to make sure to  
12 clarify. I mean, is this more of a situation where the  
13 other person on the job site so they're more telling you  
14 where to put stuff, you know, where to move stuff back  
15 and forth or do they have authority to like discipline  
16 you and that sort of type of supervisor?

17 A. Well, the -- well, like Chris -- Chris Shelton  
18 would yeah, he could -- he could get you in trouble, you  
19 know, if you did something wrong. And then Jason Ragle  
20 was over the whole thing. The whole -- I think he was  
21 the head of the whole Booneville thing there.

22 Q. And both Chris Shelton and Jason Ragle, do they  
23 both work for Ragle?

24 A. Yes, sir.

25 Q. Now, we have already some records into evidence

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1 about, you know, how many hours employees worked and  
2 that sort of thing.

3 But in your experience, just roughly what was your  
4 -- what was your, in terms of the number of hours you  
5 would often work?

6 A. Sometimes I'd come in at 3:00 or 4 o'clock in the  
7 morning and work till 4:30, 5 o'clock at night, at least  
8 five days a week, sometimes six. And sometimes a half  
9 day on -- on a Saturday. And it depends if it rained.  
10 Now, if it rains real hard where they couldn't get the  
11 trucks in then we didn't work until they could get the  
12 trucks in.

13 Q. And so I guess let me ask, and maybe this goes back  
14 to how you got your job assignments. But I mean, would  
15 you just show up each morning expecting to work or -- or  
16 how -- how were you notified to -- that you could work?

17 A. If the supervisor wanted you back the next day then  
18 like Austin or Dee would call you on your phone and let  
19 you know where you was going the next day. And what  
20 time to be there or, you know, what -- whatever Moziers  
21 Yard, and be there when they opened it up and pick up a  
22 load of 2's or 53's and take them to such and such  
23 place.

24 Q. And just for their court reporter's purposes, can  
25 you stop -- you said is that Moziers Yard; is that what

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1 you --

2 A. Moziers. Moziers Yard. I'm not really sure how to  
3 spell that. But they've been bought out since -- since  
4 this has gone on so.

5 Q. Okay.

6 A. This is still Moziers Yard.

7 Q. And -- and let me ask, I know you mentioned rain,  
8 but beyond just a daily weather event, was there --  
9 would you say there was a busy season and a slow season  
10 or was it pretty much constant throughout the year?

11 A. We worked pretty much April to usually right at the  
12 end of November, sometimes you made it to Christmas and  
13 you'd be like laid off for a little while until they got  
14 going again. That we could draw unemployment at that  
15 time. Mr. Ragle didn't or anybody else [inaudible] not  
16 against us to where [inaudible].

17 Q. Okay. And let me ask in the -- in the time that  
18 you worked there, if you could just -- not a total  
19 number, but, you know, how many employees were sort of  
20 on the -- on the team or working at any one point?

21 A. At Falcon, I think at the -- the most we had  
22 probably at one time was I'd say six, maybe -- maybe  
23 seven at the -- at the, you know, the most that  
24 everybody was working. I mean, at the height of it I  
25 guess you could say.

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1 Q. And --

2 A. And a truck that went empty.

3 Q. And -- and what would be -- what was a typical --  
4 and was six or seven typical or?

5 A. Five to six typical, yeah.

6 Q. And in terms of I guess just let's first focus on  
7 the Falcon side, in terms of how many dump trucks,  
8 whether it was tri-axle or quad, how many dump -- dump  
9 trucks did -- did Falcon have, do you know?

10 A. They had two quads, two Fords that were tri-axes,  
11 and we had three Sterlings that were Falcon.

12 Q. And so the Sterlings, are those quads or tri-axes?

13 A. Them was auto -- yeah, they was tri- axes but it  
14 was the automatic. So the new -- the newer ones that  
15 were automatic.

16 Q. And how did the assignment of -- of trucks --

17 A. Seven.

18 Q. So -- so how did the assignment of trucks work?

19 A. Well, sometimes it worked whoever had been there  
20 the longest go the whatever or the one that's like --  
21 like Austin -- Austin Underhill, he got the newest one  
22 that came in. Or, you know, the one that was running --  
23 running good. And other than that, it was like  
24 [inaudible] right there for that [inaudible] of quads, I  
25 didn't drive them very much.

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1           So I had a regular Sterling but in a couple of  
2 cases I got my -- I got stuck with a Ford because one of  
3 them broke down and sometimes the Fords didn't have the  
4 air conditioning that the rest of them had. And  
5 sometimes I would put myself in the Ford, and let  
6 somebody else with the truck that air conditioner. Just  
7 because I knew they couldn't take the heat that much.

8           Mike -- Mike Thomas was kind of a heavier guy and  
9 couldn't really fit in the Ford too well. Anyway, so I  
10 drive it and get dusted out all day running in the dirt  
11 while he drove the Sterling with the automatic with air,  
12 with the windows up as he dusted me when he went by.

13 Q.    So except when you were being nice, it sounds like  
14 -- I mean, were you one of the more senior employees so  
15 you got your pick, is that what I'm understanding?

16 A.    I was there the longest after Austin -- Austin got  
17 terminated. I think he was there, he was there a little  
18 longer than I was. And he got terminated for something,  
19 I don't know exactly what. Even if I did, I wouldn't  
20 tell you because that's not my personal opinion to down  
21 somebody, but.

22 Q.    Sure. And I guess from what you observed in terms  
23 of your coworkers, were there -- was there a lot of  
24 turnover? I mean, was there a lot of short term  
25 employees or were there people that were there, you

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1 know, longer time kind of like you?

2 A. They'd worked about a year, two years a couple of  
3 them. They had a couple of them, one of them was --  
4 murdered his wife in [inaudible] not too long back.  
5 Yeah, that was how they told the story but other than  
6 that, they had a -- pretty much, we was pretty good  
7 there at the last -- at the end we had everybody was  
8 working really good together. I think we had five of us  
9 or six of us there.

10 Q. And when you say -- when you say at the end, what  
11 do -- what do you mean by that?

12 A. Well I mean, like we voted the Union in and that  
13 was about all she wrote you could say. It seemed like  
14 almost immediately after that a girl had to go, I think  
15 to Florida because her (b) (6), (b) (7)(C)  
16 which left us two of us and we weren't -- we weren't  
17 working a whole lot. Kind of -- so I jumped over to a  
18 Union job because I didn't think we was going to get  
19 anywhere where we was at pretty much.

20 Q. Okay.

21 A. And the guy sold the truck --

22 Q. And so you --

23 A. -- so I didn't really pan out at all.

24 Q. So do you remember when it was you would have left  
25 Falcon Trucking? And if you don't remember, just --

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1 just answer honestly.

2 A. I don't -- I really cannot say but I'm thinking  
3 it's around -- was around in April or May, somewhere in  
4 there. But I do not know what year.

5 Q. Okay. Okay.

6 MR. JOHNSON: I have no further questions, Your  
7 Honor.

8 JUDGE KEY: Mr. Morris, do you have any questions?

9 MR. MORRIS: Nothing here, Your Honor.

10 JUDGE KEY: Mr. Garrison, do you have any  
11 questions?

12 MR. GARRISON: Yes. But first, is there a Jencks  
13 Statement for this witness?

14 MR. JOHNSON: Yes, Your Honor. There are two  
15 Jencks Statements, let me just -- one is a total of  
16 seven pages with -- well, six pages plus a signature  
17 page and the second one is three pages plus a signature  
18 page.

19 JUDGE KEY: Do you want to send them to him via e-  
20 mail? Is that how you anticipate transmitting them?

21 MR. JOHNSON: Yes, Your Honor. With -- and they've  
22 just been sent with the -- the caveat is in your pre-  
23 hearing instructions that they agree they'd delete them  
24 as soon as they're done with their cross-examine and  
25 represent that they've done so, so. But they have been

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1 sent.

2 JUDGE KEY: Mr. Garrison, how much time would you  
3 like to review the Jencks Statements?

4 MR. GARRISON: I think I need about 15 minutes or  
5 so, Your Honor.

6 JUDGE KEY: Okay. So we will be in recess until  
7 9:35 Central Standard Time.

8 MR. GARRISON: Thank you very much, Judge. I would  
9 just note that I haven't received them yet. Oh, they  
10 just came through.

11 *[Off the record]*

12 JUDGE KEY: Let's go back on the record, please.  
13 You may proceed.

14 MR. GARRISON: Thank you very much, Judge Key.

15 CROSS-EXAMINATION

16 Q. BY MR. GARRISON: Mr. Slaughter, my name is Brian  
17 Garrison. I represent the Respondents in this case.  
18 And I have some questions for you about that testimony  
19 you offered in response to Mr. Johnson question.

20 Are you able to hear me all right, sir?

21 A. Yes, sir.

22 Q. Okay. Thank you. Mr. Slaughter, so you mentioned  
23 a few other trucks besides the Falcon tri-axles and quad  
24 axles that you operated. Specifically single axle, and  
25 single axle flatbed and an 18 wheeler, correct?

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1 A. Yes, sir.

2 Q. And to your knowledge those trucks, the single  
3 axles and the 18 wheeler, were owned by Ragle, correct?

4 A. Correct.

5 Q. Okay. And you provided a bit of testimony about  
6 your operation of those and general testimony, but you  
7 don't know exactly when it was that you operated those  
8 trucks, correct?

9 A. I'm not sure exactly what date, no, sir.

10 Q. And you actually started your employment with  
11 Falcon Trucking in 2009, correct?

12 A. I'm not exactly sure of that either. I just know I  
13 worked there about seven years.

14 Q. Do you remember when you last worked for Falcon?

15 A. Not at this time. No, I can't say exactly the  
16 date.

17 Q. Mr. Slaughter, if I said late 2014, around  
18 Thanksgiving time, would that sound right?

19 A. That's possible.

20 Q. And do you recall being called back to work in  
21 2015, sir?

22 A. I think I got a text from Dee Watson that everybody  
23 that was going to work needed to call him or something,  
24 but I was already working somewhere else at the time.

25 Q. And you mentioned that you found another job

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1 elsewhere, so you elected not to return to Falcon when  
2 you were invited to, right?

3 A. Yes, sir. But in retrospect after I got fired --  
4 when the guy sold the truck, I did talk to Joyce about  
5 returning and she said they weren't hiring anybody at  
6 Falcon no more.

7 Q. You don't have any particular date on that  
8 conversation I presume, do you, Mr. Slaughter?

9 A. No. No, sir. I do not.

10 Q. Well, you did get a check from Falcon Trucking in  
11 2016 for about \$1,600; is that correct?

12 A. A check for 1,600. I got one for 3,200 as I recall  
13 for back pay of things that should have been a union job  
14 that wasn't paid as a union job. I'm not exactly sure  
15 which one you're talking about. I do remember getting  
16 something like \$3,000.

17 Q. Would it suffice to say that you don't -- Mr.  
18 Slaughter, you don't recall getting a -- getting a check  
19 for about \$1,600 in 2016 from Falcon?

20 A. Not to my recollection. I might have but I'm not  
21 for sure.

22 Q. And is it accurate to say, Mr. Slaughter, that you  
23 have some general recollection about how you were  
24 assigned the jobs but you don't know how Falcon Trucking  
25 made its decisions about who to assign to which jobs?

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1 A. I do not know how that they decided the -- the --  
2 what jobs we're going to what. I just figured the  
3 dispatcher did that. I believe it was Dee Watson at the  
4 time.

5 Q. And -- and at what time was that?

6 A. The time was right before -- after we signed --  
7 actually it was before we signed the Union. I think he  
8 was doing it for about a -- approximately a year, I  
9 guess.

10 Q. So the other individuals you mentioned would have  
11 been prior to that; is that correct?

12 A. Yes, sir.

13 Q. Okay. When you were assigned jobs, I think your  
14 testimony that was generally given -- assigned to you  
15 the day before, right?

16 A. Yes, sir.

17 Q. And you understand that that was based on whatever  
18 Falcon's customers needed on a day-to-day basis; is that  
19 right?

20 A. Yeah.

21 Q. And -- and you also understand that many times on  
22 construction jobs there was a preference for minority  
23 status dump trucking companies, right?

24 A. I'm assuming there is. A lot of the Union, I  
25 believe that's why Starnes is in business, because he

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1 was Union and --

2 Q. I'm sorry, go ahead, Mr. Slaughter.

3 A. I believe that Starnes is owned like that, they get  
4 a lot of preference on the Union jobs.

5 Q. But that's due to their status is a minority  
6 business entity rather than --

7 A. Yes, sir.

8 Q. -- anything else, right?

9 A. Yes, sir. Yes, sir. Yes, sir.

10 Q. And you understood didn't you, that Falcon was not  
11 that type a minority business entity, right?

12 A. Yes, sir.

13 Q. There were other dump trucking companies you would  
14 see on jobs or run into in the market that were also  
15 minority business entities, right?

16 A. Minorities, I do not know. I think R&J was  
17 supposedly similar -- a minority because the person that  
18 owned -- the company he signed with was a black man that  
19 had one dump truck and I think R&J still has that same  
20 minority status.

21 Q. R&J was one that you recall, how about Liggon  
22 Trucking, L-I-G-G-O-N?

23 A. Yeah, Liggon, that's the one that R&J got or bought  
24 or whatever.

25 Q. And those to your recollection were minority status

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1 dump trucking firms that often got preference on -- on  
2 jobs due to their minority status, right?

3 A. Correct.

4 Q. Mr. Slaughter, you mentioned operating a quad for  
5 Falcon Trucking, correct?

6 A. Yes.

7 Q. That was a Falcon truck rather than a Ragle truck,  
8 correct?

9 A. Yes, that's what I said.

10 Q. And -- and that would have been closer to the  
11 beginning of your employment with Falcon, rather than  
12 the end, right?

13 A. Yes, sir.

14 Q. Because Falcon actually got rid of that truck while  
15 you were employed, didn't it?

16 A. Yes, sir. Because it would-- actually it would go  
17 over railroad tracks with the load on it and the wheels  
18 got squirmy on it.

19 Q. Nothing further for you, Mr. Slaughter. Thank you.

20 A. Thank you.

21 JUDGE KEY: Anything further, Mr. Johnson?

22 MR. JOHNSON: Just a couple of follow ups or  
23 clarifications, if I could, Your Honor.

24 REDIRECT EXAMINATION

25 Q. BY MR. JOHNSON: First I want to go back, you --

1 Mr. Slaughter, you mentioned a person named Joyce?

2 A. Yes.

3 Q. Who is -- who is Joyce?

4 A. Joyce is the lady that used to -- I believe it -- I  
5 think her name was Joyce, she's a dark haired lady, she  
6 would be the receptionist.

7 Q. And the receptionist --

8 A. Yeah, right inside the door, she'd sit there at  
9 that desk up there.

10 Q. And when you say the receptionist -- receptionist  
11 for -- who did she work for?

12 A. Ragle, super nice lady.

13 Q. And then you mentioned some of these -- or -- and  
14 maybe Mr. Garrison mention some of these, these minority  
15 businesses like I think you said R&J and Liggon and  
16 Starnes; do you recall that --

17 A. Yes.

18 Q. -- discussion?

19 A. Yes.

20 Q. Did those companies have that minority status while  
21 you were still working at Falcon?

22 A. I think Starnes did. I think R&J acquired Liggon  
23 or was in business with that guy that owned Liggon.

24 That's when we was at the airport, actually the -- the  
25 black guy that owned Liggon was out there. Maybe they

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1 seen him [inaudible] out at the airport. But I think R&J  
2 and them kind of merged together somehow or something,  
3 I'm not exactly sure.

4 Q. Well, I guess I'm trying to understand is, if -- if  
5 I understood right Mr. Garrison was asking that there  
6 was -- if there was a preference for minority  
7 businesses, minority trucking companies, and I'm trying  
8 to understand that preference did that still exist while  
9 you worked at Falcon or was that something that came  
10 after you left Falcon?

11 A. Really I couldn't tell you as far as I'm assuming  
12 that they were going to hire them because the -- the --  
13 having minorities work versus regular employees or what  
14 have you. Give them a break or what have you. I don't  
15 know. I don't know exactly how that works. I just  
16 still --

17 Q. Well, I guess I'm trying to understand, and I  
18 understand maybe you don't understand the mechanics of  
19 how it works, but was that -- was that concept or an  
20 issue while you worked at Falcon or was that something  
21 that came up after you left Falcon and just in the  
22 industry; do you -- do you know?

23 A. Well, I don't -- I mean, L.B. and that Austin guy  
24 would say something about Falcon was looking to have  
25 that thing done. I think Keith Sanderford owned it or

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1 run it then and I don't think his wife or something  
2 didn't want to put it in her name or something somewhat.  
3 So I did not know where it went after that or what.

4 Q. I'm sorry, you lost me there. Who -- who was  
5 trying to have their wife?

6 A. It was her -- I mean, it's kind of -- it's not  
7 really for fact, this was going through around us guys  
8 that they were looking to get minority status of Falcon  
9 trucks somehow. But I believe Jason's wife didn't want  
10 to sign it, sign her name to it or Mr. Sanderford didn't  
11 want one of theirs or something. I'm not exactly -- I  
12 just want to say it's just hearsay basically.

13 Q. Okay.

14 MR. JOHNSON: That was all I had, Your Honor, just  
15 a couple of follow ups. Thank you.

16 JUDGE KEY: Mr. Morris?

17 DIRECT EXAMINATION

18 Q. BY MR. MORRIS: Just so we're clear, Mr. Slaughter,  
19 while you were working at Falcon you -- did you  
20 encounter those minority contractors while Falcon was  
21 still blowing and going, like Starnes and Liggon?

22 A. Well, yeah. We passed them all the time. Actually  
23 Starnes worked on 261s with us.

24 Q. Okay.

25 A. I mean, Mister -- Mr. Ragle did pay us, I think it

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1 was like \$41 something an hour at that time because it  
2 was a union wage when we started structural work at the  
3 same place.

4 Q. Okay.

5 MR. MORRIS: Thank you, that's all.

6 EXAMINATION BY COURT

7 Q. BY JUDGE KEY: So I'm still not clear, is the name  
8 of this company you just referenced Stars?

9 A. Starnes.

10 Q. Starnes, okay. So --

11 A. Starnes. Starnes.

12 Q. Starnes.

13 A. Starnes. Starnes.

14 MR. MORRIS: S-T-A-R-N-E-S, Your Honor.

15 Q. JUDGE KEY: Okay. And did Starnes work for Ragle  
16 or did Starnes work for another contractor?

17 A. They worked for Ragle sometimes on the union jobs  
18 as well. Because they're the biggest in our area, Union  
19 -- Union trucks.

20 Q. So it's still not clear to me, there's some  
21 relationship with R&J and Liggon. While you worked for  
22 Falcon, did you work on jobs with R&J or Liggon?

23 A. Yes. At the airport.

24 Q. And who did you work with?

25 A. It was R&J, there was one guy that was a Liggon's

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1 guy and there was R&J trucks, Mitchell trucks, GGI  
2 trucks and Falcon trucks.

3 Q. And did R&J -- who was -- do you know -- do you or  
4 do you not know who R&J and Liggon worked for?

5 A. The airport evidently. What, I don't know but they  
6 got the contract.

7 Q. Okay. So were they working for Ragle or were they  
8 working for -- hired by the airport, if you know?

9 A. I believe they were as hired by the airport at that  
10 time.

11 Q. So when you were talking about preference given to  
12 minority contractors, were you talking about Ragle  
13 giving them preference or were you talking about  
14 generally in the industry, companies giving them  
15 preference?

16 A. Well, the Stearns trucks are the only Union trucks  
17 that I know of in this area when am working. And they  
18 actually owned a sister company which is Cooper. The  
19 guy owns Cooper trucks and the wife owns the Starnes  
20 trucks, they're out of Princeton.

21 Q. So -- so is it correct or incorrect that while you  
22 worked for Ragle the only minority contractors that you  
23 were aware of that Ragle employed was Stearns?

24 A. Stearns that I -- that I knew of that had that  
25 thing that you're talking about. The female status or

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1 whatever that status is or whatever it is. I just  
2 thought Sterns trucks were Union but I guess they've got  
3 female owning it gives it more of a -- or whatever, I  
4 don't know. I don't know how all that works.

5 Q. All right. And the Falcon trucks that you're aware  
6 of were two quad dump trucks; is that right?

7 A. We had two quads that's [inaudible - Audio 3  
8 18:43].

9 Q. And one of which -- one of which broke down while  
10 you work there, right?

11 MR. MORRIS: Your Honor, there are other trucks.  
12 You interrupted him when he was trying to answer the  
13 question. Excuse me for interrupting, but there were  
14 not just two quads but --

15 JUDGE KEY: I understand that. I was just going  
16 through the two -- I was starting with the two quads,  
17 Mr. Morris. Okay.

18 THE WITNESS: Yeah, it --

19 Q. JUDGE KEY: There were two quads, one of which  
20 broke down; is that right?

21 A. Well, it ran when they got rid of it. I mean, it  
22 didn't -- it just drove funny because when you had the  
23 wheels down over a railroad track with a load, it would  
24 -- yeah, you'd have to pick up the wheels to go over  
25 railroad tracks and stuff.

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1 Q. And then there was two tri-axle Fords; is that  
2 right?

3 A. Yes, ma'am.

4 Q. And then three Sterling tri-axle trucks?

5 A. Yes, ma'am.

6 Q. And to your knowledge those were the only Falcon  
7 trucks?

8 A. Yes, ma'am.

9 Q. And to your --

10 A. The other guy --

11 Q. Oh go ahead.

12 A. So they got new -- and then they got Macks, they  
13 got rid of the Sterlings but that was -- yeah. That was  
14 later on.

15 Q. So what were the other vehicles that Ragle or that  
16 -- that Falcon had?

17 A. They had three Macks and they got rid of the three  
18 Sterlings.

19 Q. So the three Macks were -- and the Macks tri-axle  
20 automatics?

21 A. I think they was all standard shift.

22 Q. Okay. And they replaced the three Sterlings?

23 A. Yes, ma'am. I think it was said that they would  
24 hold up better versus the automatics.

25 Q. Okay. And then to your knowledge what vehicles

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1 were owned by Ragle that Falcon employees drove?

2 A. The -- it was like a single axle flatbed, I think  
3 it was a Freightliner. And then a couple of us drove 18  
4 wheeler lowboys. Or -- or that or the flatbed itself to  
5 deliver parts and stuff. I think I did, Thomas did and  
6 so did Austin Underhill.

7 Q. So how many single axle flatbed Freightliners did  
8 Ragle's employees or did Falcon's employees drive that  
9 were owned by Ragle?

10 A. Just the one. They only had one at that time.

11 Q. Okay. And how many 18 wheeler lowboys did Falcons  
12 employees drive that were owned by Ragle?

13 A. I would say one. They had two at that time but  
14 they also had a flatbed that was -- you didn't -- you  
15 didn't load the, like equipment on, it was just like a  
16 flatbed you put like pipe and so forth like that. Just  
17 like a regular flatbed, 18 wheeler going down the road.

18 Q. So I'm still not clear, how many trucks that will  
19 Ragle trucks did Falcon's employees drive?

20 A. Okay. The flatbed single axle and then they had  
21 two red 18 wheeler tractors but it might have been a  
22 different trailer that they put on it to drive, how's  
23 that? Is that better?

24 Q. So but I'm still not clear. So how many trucks.

25 Let's start with just tell me the number of trucks owned

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1 by Ragle that Falcon's employees drove?

2 A. Okay. They had two tractor trailers, let's just  
3 put it that way, and then the one flatbed single axle.  
4 They also had a single axle dump truck, it was red, I  
5 drove it a couple of times but I think that one they  
6 started with and it -- yeah, it was in the back, they  
7 put it in the back because it didn't run very long.

8 Q. So is it accurate that there were four different  
9 trucks owned by Ragle, driven by Falcon's employees, two  
10 tractor trailers, one flatbed single axle and one dump  
11 truck?

12 A. Correct.

13 Q. All right. Thank you.

14 A. And -- and every -- and every now and then drive a  
15 pickup truck with Ragle on it if we had like -- like out  
16 towards Elnora we put the trucks out there and we drove  
17 their pickup truck to save fuel instead of driving their  
18 trucks back and forth we just drove their truck.

19 Q. All right.

20 A. Okay.

21 JUDGE KEY: Mr. Johnson, did my questions raise any  
22 further questions for you?

23 JUDGE KEY: No, Your Honor.

24 JUDGE KEY: Mr. Morris?

25 MR. MORRIS: No, thank you, Your Honor.

1 JUDGE KEY: And Mr. Garrison?

2 MR. GARRISON: Yes, Your Honor. I do have some  
3 follow up.

4 RECROSS-EXAMINATION

5 Q. BY MR. GARRISON: Mr. Slaughter, you just provided  
6 some testimony about these four Ragle trucks that you  
7 say you operated. I think you confirmed your response  
8 to my prior questions that you don't know when during --  
9 when during your employment you operated those trucks,  
10 correct?

11 A. Correct.

12 Q. So you don't know whether it was in 2010 or 2014  
13 for example?

14 A. Correct. I can tell you where I drove them to  
15 though.

16 Q. You drove -- you drove them on a job site I  
17 presume, right?

18 A. Yep.

19 Q. Okay. And when do you drove the -- with the pickup  
20 trucks, the light duty pickup trucks, those were for  
21 personal purposes to get to and from the work --

22 A. Yeah, to save -- to save fuel. I mean they paid  
23 for it.

24 Q. Those four Ragle trucks that you testified to, Mr.  
25 Slaughter, you didn't drive them every day, correct?

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1 A. Correct.

2 Q. And in fact you drove them very infrequently, isn't  
3 that correct?

4 A. Correct

5 Q. Because the vast majority of time it was Ragle  
6 employees that were operating those trucks, correct?

7 A. Correct, but you don't have to raise your voice.

8 Q. Oh, I'm not -- I'm not trying to. I'm sorry, Mr.  
9 Slaughter, I just wanted to -- you never know how well  
10 you're able to hear these -- in these Zoom conferences  
11 so I just wanted to make sure you're able to hear me. I  
12 wasn't trying to raise my voice, my apologies.

13 A. Okay.

14 Q. And when you say you drove them infrequently, it  
15 was maybe a few times a year at most, correct?

16 A. Yeah, correct.

17 Q. And you testified about a Ragle dump truck, that  
18 was not a tri-axle or a quad axle dump truck, correct?

19 A. Correct. It was like a little single axle, it was  
20 red. I think he had two of them. But the one didn't  
21 run, so we drove the other -- one of them. It wasn't  
22 very long, maybe about a month and we quit driving it  
23 because it was -- I think it burned up too much oil or  
24 something.

25 Q. And those single axle dump trucks mainly stayed on

1 the job sites, right?

2 A. Correct.

3 Q. Whereas the triaxle you drove -- you would actually  
4 drive to and from the job site, right?

5 A. Correct.

6 Q. You also testified, Mr. Slaughter, about in  
7 response to Judge Key's questions about the minority  
8 status dump trucking companies that you worked  
9 alongside, right?

10 A. Yes.

11 Q. I just want to make sure the record is clear,  
12 you're just testifying about your individual  
13 observations of other trucks you saw on projects,  
14 correct?

15 A. Correct.

16 Q. So you have no personal knowledge about the  
17 entities that Ragle contracted with or the entities that  
18 others contracted with, right?

19 A. Right.

20 Q. Nor do you have any personal knowledge about the  
21 requirements applicable to those contracts, right?

22 A. I do not know whatsoever.

23 Q. I have nothing further for you, Mr. Slaughter,  
24 thank you.

25 JUDGE KEY: Anything, Mr. Johnson?

1 MR. JOHNSON: No -- no, Your Honor.

2 JUDGE KEY: Mr. Morris?

3 MR. JOHNSON: No, Your Honor.

4 JUDGE KEY: I thank you for your testimony and you  
5 are excused.

6 Counsel for the General Counsel, I will ask you to  
7 monitor your witnesses in terms of the Sequestration  
8 Order, okay?

9 MR. JOHNSON: Certainly, Your Honor.

10 The main rule, Kenny, is just don't talk to anybody  
11 about your testimony, okay?

12 THE WITNESS: I'm leaving here as soon as I can.

13 JUDGE KEY: All right. Would you like a few  
14 minutes to get your next witness setup, Mr. Johnson?

15 MR. JOHNSON: Yes, we would call Michael Sachs, but  
16 yeah, just a couple of seconds to get him set up in  
17 there.

18 JUDGE KEY: Okay. So we'll just be in recess for  
19 about two minutes.

20 *[Off the record]*

21 JUDGE KEY: Mr. Johnson, you may call your next  
22 witness.

23 MR. JOHNSON: Yes, Your Honor. I first just want  
24 to confirm, I got an e-mail from Mr. Garrison, that they  
25 have deleted all of the Jencks material; is that

1 correct, Mr. Garrison?

2 MR. GARRISON: That is correct, Your Honor.

3 MR. JOHNSON: Okay. Thank you, I appreciate that.

4 JUDGE KEY: I think we're on the record, Ms.  
5 Molinaro?

6 COURT REPORTER: Yes. Yes, we are.

7 JUDGE KEY: Okay. Mr. Sachs, please raise your  
8 right hand.

9 (Whereupon,

10 **MICHAEL SACHS**

11 having been sworn/affirmed, was called as a witness  
12 herein, and was examined and testified via video-  
13 conference, as follows:)

14 JUDGE KEY: Mr. Sachs, it's Michael, M-I-C-H-A-E-L;  
15 is that correct?

16 MR. SACHS: Yes.

17 JUDGE KEY: And how do you spell your last name?

18 MR. SACHS: S-A-C-H-S.

19 JUDGE KEY: Go ahead, Mr. Johnson.

20 MR. JOHNSON: Okay. Thank you, Your Honor.

21 DIRECT EXAMINATION

22 Q. BY MR. JOHNSON: Mr. Sachs, first I wanted to  
23 confirm you were issued a subpoena to appear here today,  
24 correct?

25 A. Yes.

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1 Q. And are you currently a member of a Union?

2 A. No.

3 Q. And are you familiar with Falcon Trucking?

4 A. Yeah.

5 Q. And how are you familiar with them?

6 A. I used to work for them.

7 Q. And do you recall the dates of employment, when you  
8 started and when you ended?

9 A. No, I do not.

10 Q. Okay. Do you recall how long were you employed  
11 there?

12 A. A couple two or three years.

13 Q. And what was your job while you worked at Falcon?

14 A. Drive dump trucks, load dirt when I -- they had  
15 dirt call, stuff like that.

16 Q. And let me ask, are you familiar with a company  
17 called Ragle?

18 A. Yeah, and Falcon.

19 Q. Okay. So I'm just going to ask, how you familiar  
20 with them.

21 So you said they own Falcon?

22 A. Yep. Yes.

23 Q. So let me ask, in terms of I know you mentioned you  
24 said you drive dump trucks and you load dirt.

25 So what kind of projects was it that you'd be

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1 working on?

2 A. Highways, roads.

3 Q. And in terms of the dump truck aspect of it, what

4 -- what was your job with regard to a dump truck?

5 Describe for us what you would do.

6 A. Take them out when they was full of dirt and just

7 help the other drivers with any problems they would have

8 if I could help, you know.

9 Q. Okay. And -- and so what would you-- in terms of

10 dump truck, what would you be hauling with your dump

11 truck?

12 A. Anything from stone, sand, gravel, dirt, asphalt,

13 concrete just whatever -- whatever they put in it.

14 Whatever the job called for.

15 Q. And in terms of -- so you would get your truck

16 loaded and then take it out.

17 Is this a onetime thing like once a day you would

18 take something out to a job site or where you make

19 multiple trips? What -- described for us what it was

20 like.

21 A. Multiple trips. They might have you go get sand

22 this load and have you haul stone for the next five

23 loads and go back and haul three or four loads of sand

24 or a load of dirt or just whatever they needed at the

25 time.

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1 Q. Okay. And who was it who was telling you what --  
2 what to go pick up or -- or what to get?

3 A. Generally the foremen on the job.

4 Q. And -- and then you also I think you said you  
5 indicated you -- you would load dirt?

6 A. Right.

7 Q. What -- just what do you mean by that?

8 A. Like working on 261, we was doing the side ditches.  
9 We'd have to haul dirt in there to level up over the  
10 curbs and places like wherever. So I'd have to load  
11 trucks out that go and unload it. Like say 261 to build  
12 the dirt up to curb height.

13 Q. So I guess I'm not -- I'm trying to understand. So  
14 were you actually -- would you be driving a dump truck  
15 in that case or would you be doing some other piece of  
16 equipment?

17 A. I'd be using a track hoe at the time and I'd fill  
18 five or six trucks plus my truck and then we'd go out  
19 and we'd dump. And when we get back I'd get that track  
20 hoe and load the trucks out again.

21 Q. And whose trucks would you be loading? Who owned  
22 the trucks you would be loading?

23 A. It could be a Falcon truck, it could be any lease  
24 truck that they had, you know, on the job also, it's  
25 hard to say at that time.

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1 Q. So what do you mean by any lease truck? Just again  
2 assume I don't know anything about the construction  
3 industry, what is -- what do you mean by that?

4 A. Well, when they -- when we're working on that big  
5 job that they call for 15 trucks that day, and you only  
6 own three or four, you have to get leased trucks,  
7 private owner operators or other trucking companies to  
8 provide you with the trucks that you're lacking. So  
9 they call them lease trucks. And they work for you  
10 until you was done with them that day or that week or  
11 whatever and they'd haul whatever you have to, you know,  
12 you needed at the job.

13 Q. And so, just so I understand, so these leased  
14 trucks who would they be -- who would they be working  
15 for, if you know? You said they would be -- you said if  
16 you were short on trucks, you'd bring in leased trucks.

17 What company would be bringing in the lease trucks?

18 A. Ragle would order for Falcon because we didn't have  
19 no real Falcon people except for the drivers, everybody  
20 else was Ragle.

21 Q. Okay. And so -- so let me ask who would you get  
22 your job assignments from in terms of how would you know  
23 which job site to go to at the start of the day?

24 A. They've got a guy, I can't remember Dee's last  
25 name, he's the lowboy driver, a lot of times he would

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1 tell us or one of the mechanics would tell us or  
2 somebody in the office would come out and tell us, you  
3 know, where we was going, what we was doing, what we  
4 needed to go get before we went to the job or go to the  
5 job empty because they're still digging.

6 Q. And so Dee, and you don't recall Dee's last name;  
7 is that right?

8 A. No, I don't.

9 Q. Okay. But you said he's the lowboy driver; who --  
10 who did he work for?

11 A. Ragle.

12 Q. And you said mechanics would maybe give you  
13 assignments?

14 A. Yeah.

15 Q. Who?

16 A. Rob and John they were the two mechanics at the  
17 time at the shop.

18 Q. And -- and who did they work for?

19 A. Ragle.

20 Q. Okay. And I think you said or someone from the  
21 office would come tell you who --

22 A. Yeah.

23 Q. Which office?

24 A. It could be a secretary or it could be anybody, you  
25 know.

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1 Q. And I guess who did those office people work for?

2 A. Ragle. Ragle.

3 Q. And so in terms of the -- the job sites that you'd

4 be sent to, like you said, the highway projects or the

5 roads, who was -- who would you say was kind of the --

6 was there a primary customer that you were doing most of

7 the work for or did it vary?

8 A. It varied quite a bit, yeah.

9 Q. Okay. So what were some of the companies you'd

10 perform work for?

11 A. Well, Ragle, I -- I can't remember any of the rest

12 of the companies. I mean, a lot of times I hauled on

13 jobs and I didn't even know who I was hauling for. I

14 just knew that, you know, Ragle got our jobs for us, it

15 might have been for Blankenburger (phonetic). It could

16 have been for, you know, anybody Staabs or anybody.

17 Q. Okay. But Ragle was kind of the one constant; is

18 that what I'm understanding?

19 A. Yep.

20 Q. So let me step back and ask, we've covered this a

21 little bit but talking about some of the equipment or

22 vehicles that -- that you would have operated.

23 So you mentioned you drove a dump truck, what --

24 what kind of dump truck did you operate?

25 A. Tri-axle Ford, a tri-axle Mack.

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- 1 Q. You said a tri-axle Ford and a tri-axle Mack?
- 2 A. Right. Yeah, right. Yeah.
- 3 Q. And -- and who, if you know who owned those
- 4 vehicles?
- 5 A. The company Falcon owned the vehicles per se but
- 6 everything was owned but Ragle.
- 7 Q. Well, I guess was there signage on the vehicle to
- 8 say, you know, --
- 9 A. No, it said Falcon.
- 10 Q. Okay.
- 11 A. Falcon Tucking LLC or whatever.
- 12 Q. Okay. And then you mentioned a track hoe, who --
- 13 A. Yeah.
- 14 Q. Who owned the track hoe, if you know?
- 15 A. It was a Ragle. It had Ragel's name.
- 16 Q. And if you recall, and I guess would you operate
- 17 the track hoe -- is that something you would operate at
- 18 the yard or something you would do at the -- the job
- 19 site or?
- 20 A. At the yard. Always at the yard. Unless I had to
- 21 move one to get in on a job or something. You know, get
- 22 out there whenever it was and move it on the job to get
- 23 around it or get behind it, if that was the case, you
- 24 know.
- 25 Q. And I guess just so I understand, when you say I

1 want to -- I know you were at the yard, but just what's  
2 the difference between the Falcon yard and the Ragle  
3 yard, do they have different yards or?

4 A. The same yard.

5 Q. So you mentioned the tri-axle, the Ford or the Mack  
6 and then the track hoe, was there any other equipment or  
7 vehicles that you would -- you would operate when you  
8 worked at Falcon?

9 A. The -- the pickups off and on, you know, if we're  
10 going to chase some parts for the trucks they had a  
11 pretty good size fork truck I used once in a while  
12 occasionally, that was about it. Maybe a Bobcat now and  
13 then, or a skid steer.

14 Q. So these other vehicles, the pickup and the fork  
15 truck or the Bobcat skid steer, do you know who owned  
16 those?

17 A. Ragle.

18 Q. All of those we are owned by Ragle?

19 A. Yeah.

20 Q. And I know you said you worked, you've worked at  
21 Falcon for two or three years. Do you recall when  
22 during your employment you would have been operating  
23 those? Was it just at the beginning of your employment  
24 or at the end of the employment or --

25 A. All through. All through my employment --

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1 employment. I'd get there early in the mornings and  
2 they'd shine their pickup truck lights or the car lights  
3 up the bed so I could scrape them out so we could all,  
4 you know, have plenty of beds when we'd go get stone or  
5 sand and that was almost every week. I wouldn't say it  
6 was every day.

7 Q. So what -- I mean, how would you cleaned out the  
8 beds then?

9 A. Track hoe. Raise the beds up, you take the track  
10 hoe and you position it behind it, scrape the beds down.

11 Q. And let me step back and ask, maybe I should have  
12 done it sooner, but who did you receive your paycheck  
13 from?

14 A. One of the Ragle people would come out and put it  
15 in the mailbox there by the shop. So did you have a --  
16 did each individual employee have a mailbox or?

17 A. No. No, it was just one big box that they -- we  
18 put all of our paperwork in it at the end of the week,  
19 whenever they wrote the checks, they'd put the check in  
20 that box.

21 Q. Okay. And -- and who -- what name -- in terms of  
22 what company name was on the checks, if you know?

23 A. Falcon I think. It might have been Ragle, but I'm  
24 pretty sure it was Falcon because that's who we worked  
25 for.

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1 Q. Okay. And let me ask, just -- and we have some  
2 records in terms of payroll records but just give us  
3 some idea, give the Judge some idea, what were your  
4 hours like in terms of, you know, a day or a week, how  
5 much -- how many hours would you be working.

6 A. It depends, you know, if it rained three days you  
7 didn't work very much but generally we probably got in  
8 anywhere from 35 to 50 hours.

9 Q. And was there -- did you work throughout the year  
10 or was there slow seasons or business seasons?

11 A. Oh yeah, anytime summer came around it was your  
12 busy season. And the winter time we'd work, you know,  
13 periodically but it wasn't lot of times every day and  
14 sometimes we even got laid off, you know, for maybe five  
15 or six weeks or whatever.

16 Q. And let me ask, in the time that you worked there  
17 roughly how many employees would you say were part of  
18 the Falcon crew, you know?

19 A. Four or five.

20 Q. And was that -- I mean, did it -- did it fluctuate,  
21 did it vary or was it pretty much constant four or five?

22 A. Yeah, I'd say it was pretty much constant four or  
23 five. You know, they'd come and go.

24 Q. I know there's -- we've heard from another witness,  
25 it sounds like seniority at least played a role in terms

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1 of truck assignments and that sort of thing.

2 What was -- how did your seniority compare to other  
3 employees?

4 A. The third, there's Mike Thomas, Kenny Slaughter and  
5 then me. And that's how it was the whole time I was  
6 there. We -- now, there was people, you know, one or  
7 two drivers, maybe three after me, but not all the time.

8 Q. And then, I just wanted to ask, so I know you --  
9 you indicated that you have the -- you have the dump  
10 truck that you drove, the tri-axle, Ford or the Mack,  
11 give us an idea, I mean how many -- how many dump trucks  
12 like that did Falcon have?

13 A. I was thinking they had around five, maybe six part  
14 -- part-time. There was times that, you know, we drove  
15 the Ragle single axles but that was rare.

16 Q. All right. Was that -- was that a single axle dump  
17 truck?

18 A. Yes.

19 Q. Okay. And when you say five to six part-time, what  
20 do you -- what do you mean buy part-time?

21 A. Periodically you might not use six trucks in, you  
22 know, in one day or you might use 20 trucks in a day.  
23 It just -- I'm not saying that it was part-time -- part-  
24 time. I'm just saying that, you know, if they needed  
25 five drivers, they called five drivers in or if they

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1 needed three drivers they called three drivers, you  
2 know.

3 Q. And -- and obviously you can only talk about while  
4 you work there or what you know from when you worked  
5 there, but what -- could you describe, were they all  
6 tri-axles, the five to six that you talked about, were  
7 they all tri-axle trucks?

8 A. Yes.

9 Q. And I'm talking about the Falcon side, I should  
10 say.

11 A. Right.

12 Q. All right. Okay.

13 MR. JOHNSON: That's all the questions I had, Your  
14 Honor. Thank you.

15 JUDGE KEY: Mr. Morris, do you have any questions?

16 MR. MORRIS: Just a couple, yes.

17 DIRECT EXAMINATION

18 Q. BY MR. MORRIS: Mr. Sachs, as far as the setup  
19 goes, the scene is -- that was Falcon so to speak on the  
20 same premises as Ragle?

21 A. Yeah. Yeah, we kept the trucks right behind the  
22 Ragle shop.

23 Q. You kept the Falcon trucks -- trucks, excuse me,  
24 trucks right behind Ragle shop?

25 A. Yes.

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1 Q. And the Ragle shop was a shop to work on equipment  
2 or the trucks?

3 A. Yeah, equipment, yes.

4 Q. And did they work on the Falcon trucks?

5 A. Occasionally. They farmed that out quite a bit.

6 Q. Okay. And -- and RiverTown, was that on the same  
7 premise or a different premises?

8 A. No, it's just straight across the lot where we kept  
9 our trucks.

10 Q. Okay. RiverTown is -- does what?

11 A. Concrete.

12 Q. And the -- was there -- were there three separate  
13 offices or one office?

14 A. One office when I was there. I mean, there was one  
15 building and there was several offices in the building.

16 Q. Right. Okay. In connection with your work, did  
17 you ever have a reason to talk to anyone who's last name  
18 was Ragle?

19 A. Oh yeah. Yeah.

20 Q. Okay. And which -- which Ragle would that be?

21 A. The guy that hired me I think that was the dad. I  
22 can't remember the oldest boy or the next boy's name  
23 right now, but I had correspondence with all three of  
24 them basically.

25 Q. And did they have offices in the office containing

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1 several offices that you described to us a minute ago?

2 A. Yes. Yes.

3 Q. Okay.

4 MR. MORRIS: Thank you, Your Honor. That's all I  
5 have.

6 JUDGE KEY: Mr. Garrison?

7 MR. GARRISON: Yes, I'd like to request any Jencks  
8 Statements for this witness?

9 MR. JOHNSON: Sorry, Your Honor. We have two  
10 statements, one is a six page statement and the other  
11 statement is two pages plus the signature page on the  
12 third page.

13 JUDGE KEY: Eight pages of -- of writing; is that  
14 correct?

15 MR. JOHNSON: Yes.

16 JUDGE KEY: How much time would you like, Mr.  
17 Garrison?

18 MR. GARRISON: Again, I think 15 minutes would be  
19 sufficient if that's all right.

20 JUDGE KEY: All right. So let's -- I'll resume at  
21 10:45 A.M., 11:45 eastern.

22 MR. GARRISON: Thank you.

23 [Off the record]

24 JUDGE KEY: On the record. Go ahead.

25 MR. GARRISON: Thank you very much, Judge Key.

1 CROSS-EXAMINATION

2 Q. Mr. Sachs, my name is Brian Garrison, I represent  
3 the Respondents in this case and I have some questions  
4 for you about your -- your testimony in response to Mr.  
5 Johnson and Mr. Morrison's questions.

6 A. Okay.

7 Q. Early on in that testimony, Mr. Sachs, you said  
8 that Ragle owns Falcon, correct?

9 A. Yeah, as far as I know.

10 Q. But you don't have any personal knowledge of  
11 Falcon's ownership structure, right?

12 A. As far as seeing it on paper, no.

13 Q. So the correct answer is, you don't know who owns -  
14 - who owns Falcon, right?

15 A. Well, if you go by common sense. I mean, yeah, all  
16 right. Yeah, I do not, no.

17 Q. But what you're calling common sense, is just a  
18 guess?

19 A. No. No, it's not. I mean if I got trucks that is  
20 licensed by Falcon but, you know, they're Ragle people  
21 pay for the Falcon plates and insurance and fuel and  
22 everything. It's all one company.

23 Q. But you don't -- you don't have personal knowledge  
24 of who paid certain bills, do you?

25 A. No. No, I do not. No.

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1 Q. And all that testimony that you just provided was  
2 your own speculation, wasn't it?

3 A. It was from what I have, you know, with -- have  
4 witnessed. I didn't speculate that I cleaned out trucks  
5 and loaded dirt with a track hoe.

6 Q. No, not as to your own experience, Mr. Sachs. I  
7 understood you testified about your own experience. I'm  
8 talking about your testimony about the ownership of  
9 Falcon and paying Falcon's bills and things like that.  
10 You didn't have that function when you worked for  
11 Falcon?

12 A. No. No.

13 Q. And if I understand correctly, Mr. Sachs, your  
14 employment with Falcon ended because you took another  
15 job?

16 A. Yeah.

17 Q. And that job was with -- was it CD United Trucking?

18 A. No, it was not.

19 Q. And what trucking firm was it with that you -- you  
20 took a job with when you elected to leave Falcon?

21 A. CK United.

22 Q. I'm sorry, CK United?

23 A. Yes.

24 Q. Okay. And that was in mid-2014?

25 A. Sure. Yeah.

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1 Q. And -- and after you took that job with CK United,  
2 individuals with Falcon attempted to assign work to you;  
3 is that correct?

4 A. Nope, never did. Never called me not one time  
5 after we -- after we voted the Union in. Not one time.  
6 They let the truck sit for three years before they  
7 finally sold.

8 Q. Did you receive a letter from Falcon asking about  
9 your intent to continue performing work for Falcon?

10 A. I think I did.

11 Q. I'm going to share a document on the screen.

12 MR. GARRISON: And I will just represent to you,  
13 Judge Key, this is not a document that we've entered  
14 into evidence yet. I don't know how you'd like to  
15 handle this in terms of disseminating to the other  
16 parties. I do believe that Mr. Johnson and Mr. Morris  
17 both have copies of this document.

18 JUDGE KEY: Mr. Morris and Mr. Johnson, are you  
19 familiar with this document or do you need any time to  
20 review this document before -- so at least maybe --  
21 maybe it's just the way I have it on my screen. No, I  
22 think it's the way that you're presenting it. I can't  
23 see the full document. I can just see part of it.

24 But are you -- Mr. Johnson and Mr. Morris, are you  
25 familiar with this document?

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1 MR. MORRIS: Am I familiar with it, Your Honor? We  
2 may have one -- it may be in the files here somewhere  
3 but I think wouldn't the first thing to do would be to  
4 find out if the witness can identify it before we fuss  
5 about labeling it?

6 MR. GARRISON: Well, I haven't gotten to labeling  
7 it yet. I just want to make sure that I'm not asking  
8 the witness about it without you, Mr. Morris and Mr.  
9 Johnson having a copy of it. So --

10 JUDGE KEY: Okay. Why don't you go ahead and e-  
11 mail them a copy of it.

12 MR. MORRIS: But I'm -- I'm fine to proceed. It's  
13 short enough so I can -- if Brian can just scroll down  
14 just a tad, we can read the whole thing.

15 JUDGE KEY: All right. All right. Okay. Mr. --  
16 Mr. Johnson, do you need any more time to review the  
17 document?

18 MR. JOHNSON: No, I'm fine, Your Honor.

19 JUDGE KEY: Okay. You may proceed, Mr. Garrison.

20 MR. GARRISON: Thank you, Judge Key.

21 Q. BY MR. GARRISON: Mr. Sachs, this is the letter  
22 that you received from Jason Ragle, correct?

23 A. Yes, it is.

24 Q. Okay. And about attempting to schedule you for  
25 work at Falcon Trucking, correct?

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1 A. That's what -- yeah, that's what -- right.

2 Q. And it's correct that you didn't respond to that  
3 letter; is that correct?

4 A. That's correct. I already had another job.

5 MR. GARRISON: I'll -- I'll mark this as -- I think  
6 it would be Respondent's Exhibit 33.

7 **(Respondent's Exhibit 33 is marked for identification.)**

8 MR. GARRISON: And move for its admission into  
9 evidence.

10 JUDGE KEY: Any objection, Mr. Johnson?

11 MR. JOHNSON: No, Your Honor.

12 JUDGE KEY: Mr. Morris?

13 MR. MORRIS: No.

14 JUDGE KEY: Can you put that back up just for a  
15 second, I'm sorry.

16 MR. GARRISON: Yes, of course. Here we go.

17 JUDGE KEY: I hereby admit Respondent Exhibit 33.

18 **(Respondent's Exhibit 33 is received into evidence.)**

19 MR. JOHNSON: And I'd remind you, Mr. Garrison, if  
20 you're going to circulate that via e-mail that you also  
21 include the court reporter on it so that --

22 JUDGE KEY: Well, I don't think it needs -- I mean,  
23 do you want a copy? It's -- do you -- would you like a  
24 copy? If it's going to be made an exhibit.

25 COURT REPORTER: Would I -- yes, unless it's going

1 to be on SharePoint, then I can grab it.

2 JUDGE KEY: Okay. If it's not -- so yes, would you  
3 please -- I think, yeah. With these types of exhibits  
4 would you please e-mail each of the parties and a copy  
5 of the letter and go ahead and e-mail -- do an e-mail to  
6 myself, Mr. Johnson, the court reporter and Mr. Morris.

7 COURT REPORTER: Thank you.

8 MR. GARRISON: All right. I'll do that just as  
9 soon as we're finished here.

10 JUDGE KEY: Well, they may have questions during  
11 cross.

12 So Mr. Preller, are you available to do that while  
13 Mr. Garrison is moving forward with questioning?

14 MR. PRELLER: Yes I am, Your Honor.

15 JUDGE KEY: All right. If you would please do  
16 that, I'd appreciate it.

17 Go ahead, Mr. Garrison.

18 MR. GARRISON: Thank you very much, Your Honor. I  
19 have nothing further, Your Honor.

20 *[Long pause]*

21 JUDGE KEY: Mr. Johnson?

22 REDIRECT EXAMINATION

23 Q. BY MR. JOHNSON: Let me just ask what I think  
24 hopefully one quick follow up, Mr. Sachs.

25 That -- the letter we were just -- we just talked

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1 about, were you ever dispatched via letter before?

2 A. No, never.

3 MR. JOHNSON: That's all I have, Your Honor.

4 JUDGE KEY: Mr. Morris?

5 REDIRECT EXAMINATION

6 Q. BY MR. MORRIS: Mr. Sachs, when you were -- when  
7 you were working for Falcon, did you ever encounter  
8 other drivers on the same jobs that worked for Starnes  
9 Trucking?

10 A. Yes.

11 Q. Was that just a onetime thing or is that fairly  
12 regular?

13 A. That -- that was very regular.

14 Q. Okay. What about a company called Liggon?

15 A. Yes.

16 Q. The same thing?

17 A. Yes.

18 MR. MORRIS: All right. That's all.

19 JUDGE KEY: Mr. Garrison?

20 MR. GARRISON: No, recross, Your Honor.

21 JUDGE KEY: All right. I thank you for your  
22 testimony, Mr. Sachs. You are excused.

23 And Mr. Johnson, you can give him any -- make any  
24 comments in regard to the Sequestration Order and then  
25 you can call your next witness.

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1 MR. JOHNSON: Okay.

2 JUDGE KEY: I guess it's -- I guess it's pretty  
3 close to noon. I'm happy to have you call your next  
4 witness -- yeah, why don't you call your next witness.

5 MR. JOHNSON: Sure. So Mr. Sachs, if you could  
6 just remember not to discuss your testimony with anybody  
7 until the trial is over. So pretty much don't discuss  
8 your testimony with anybody, we'd appreciate it. So but  
9 yeah, otherwise yeah, your excused.

10 So and then if I could have just a minute, Your  
11 Honor, to -- to speak with Mr. Morris. It's possible  
12 that I won't need to call an additional witness at this  
13 point. So if I could have just a couple minutes off the  
14 record?

15 JUDGE KEY: Sure. Let's stay off the record --  
16 record until noon.

17 MR. JOHNSON: Thank you, Your Honor.

18 *[Off the record]*

19 JUDGE KEY: Mr. Morris -- Mr. Johnson, it's my  
20 understanding that Counsel for the General Counsel is  
21 ready to rest their case?

22 MR. JOHNSON: That's correct. Subject to rebuttal  
23 of course, Your Honor. But yes, we rest.

24 JUDGE KEY: Okay. Mr. Morris, you may call your  
25 next witness.

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1 MR. MORRIS: If you'd give us just a minute to make  
2 sure we'll --

3 JUDGE KEY: Of course.

4 MR. MORRIS: -- logistics are set up correct.

5 JUDGE KEY: Take your -- take your time.

6 *[Long pause]*

7 MR. MORRIS: Can you ask them if they can hear you?

8 MR. BROWN: Can you hear me?

9 MR. JOHNSON: Yes, you're good, Mr. Brown.

10 JUDGE KEY: Yes. Please state your first and last  
11 name for the record.

12 MR. BROWN: My name is Earl Brown.

13 JUDGE KEY: E-A-R-L, B-R-O-W-N?

14 MS. BROWN: Yes, ma'am.

15 JUDGE KEY: Mr. Brown, would you please raise your  
16 right hand.

17 (Whereupon,

18 **EARL BROWN**

19 having been sworn/affirmed, was called as a witness  
20 herein, and was examined and testified via video-  
21 conference, as follows:)

22 JUDGE KEY: Go ahead.

23 MR. PRELLER: He'll be back in a minute.

24 MR. JOHNSON: I think Mr. Morris was just turning  
25 off the other camera, Your Honor, so.

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1 [Long pause]

2 MR. MORRIS: Thank you, Your Honor.

3 JUDGE KEY: You may proceed.

4 MR. MORRIS: Have you sworn Mr. Brown in?

5 JUDGE KEY: I have.

6 MR. MORRIS: Okay, thank you.

7 DIRECT EXAMINATION

8 Q. BY MR. MORRIS: Would you state your full name for  
9 the record, please?

10 A. Earl Brown.

11 Q. Okay. And you'll need to speak up, Mr. Brown.

12 A. Earl Brown.

13 Q. Okay. And who are you employed by, Mr. Brown

14 A. Teamsters, Local 215.

15 Q. All right. And how long have you worked at the  
16 Local?

17 A. Eleven and a half years.

18 Q. And what's your current position with the Local?

19 A. I'm vice president, business agent.

20 Q. In your capacity as business agent, did you have  
21 anything to do with the Falcon organizing in 2014?

22 A. Yes.

23 Q. All right. And was there a Union election?

24 A. Yes.

25 Q. And did the Union win the election?

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1 A. Yes.

2 Q. And you entered bargaining with the employer?

3 A. Yes.

4 Q. And were there some unfair labor practices filed  
5 against the employer ultimately in 2014?

6 A. Yes.

7 Q. And was there a settlement of those charges reached  
8 with the NLRB and the company?

9 A. I believe so. Hello.

10 Q. You have to give me a minute here, I'm not --

11 A. Okay.

12 Q. Okay. Is this a copy of the settlement that was  
13 reached with the employer?

14 **(Charging Party 2 is marked for identification.)**

15 A. Yes.

16 MR. MORRIS: This is labeled as, Your Honor, as  
17 Charging Party Exhibit 2.

18 JUDGE KEY: Give me just a --

19 MR. MORRIS: I'd like to offer into evidence.

20 JUDGE KEY: I believe it's in evidence. It's part  
21 of the -- it's part of the formal exhibits. Am I wrong?

22 MR. MORRIS: Okay.

23 JUDGE KEY: Mr. Morris -- Mr. Johnson, it's part of  
24 the -- this document is in the formal exhibits, right?

25 MR. JOHNSON: It would be in as an attachment to

1 the Complaint, Your Honor, correct.

2 MR. MORRIS: Okay. Thank you, Your Honor. I stand  
3 corrected.

4 [Long pause]

5 Q. BY MR. MORRIS: All right. And Mr. Brown, did  
6 ultimately did the employer withdrawal recognition from  
7 Local 215?

8 A. Yes.

9 Q. And I've got posted on this screen what should be  
10 labeled as, and this is later the same year, wasn't it?  
11 As -- as the settlement was breached later in 2016.

12 **(Charging Party's Exhibit 3 is marked for**  
13 **identification.)**

14 Q. Is this a copy of the company's withdraw of  
15 recognition?

16 A. Yes.

17 MR. MORRIS: I believe we've got this labeled as  
18 Charging Party Exhibit 3, Your Honor. And we can  
19 relabel it one if you prefer.

20 JUDGE KEY: You don't need to relabel any  
21 documents.

22 MR. MORRIS: Okay. We'd offer this as an exhibit  
23 for the Charging Party.

24 JUDGE KEY: So this is going to be Charging Party  
25 Exhibit 3, a letter dated December 14, 2016?

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1 MR. MORRIS: Correct.

2 JUDGE KEY: Any objection Mr. Garrison?

3 [Long pause]

4 MR. GARRISON: Sorry about that, we're just trying  
5 to unmute ourselves here. No, no objection for the  
6 Respondent.

7 JUDGE KEY: Any objection, Mr. Johnson?

8 MR. JOHNSON: No, Your Honor.

9 JUDGE KEY: I hereby admit Charging Party's Exhibit  
10 3.

11 **(Charging Party's Exhibit 3 received into evidence.)**

12 JUDGE KEY: And this -- and this is on the  
13 SharePoint, right?

14 MR. MORRIS: Yes, Your Honor.

15 JUDGE KEY: Okay. Go ahead, Mr. Morris.

16 Q. BY MR. MORRIS: Mr. Brown, since the withdraw of  
17 recognition and to date, have you had an opportunity to  
18 observe Ragle Trucking -- or excuse me, Ragle  
19 Construction performing trucking work over those years?

20 A. Yes.

21 Q. And how did you go about doing that? Did you send  
22 somebody to do it or do it yourself or ride around or  
23 what?

24 A. No, I took the pictures that you got on this screen  
25 right now.

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1 JUDGE KEY: All right. So I'm having an almost  
2 impossible time hearing you and I don't know, there must  
3 be --

4 THE WITNESS: I'm sorry.

5 JUDGE KEY: -- some way to move the microphone or  
6 move -- reposition yourself because we're not going to  
7 get a transcript worth anything if we can't hear you.

8 So why don't you repeat your last answer to your  
9 last question and see if we can't get a better audio.

10 THE WITNESS: Okay.

11 Q. BY MR. MORRIS: Try to get a little closer to the  
12 --

13 A. I don't even know where the mic is.

14 JUDGE KEY: We can hear you great now, go ahead.

15 THE WITNESS: Okay. I'm sorry, I'm sorry. I am  
16 the one that took these pictures.

17 Q. BY MR. MORRIS: All right. And Mr. Brown, as part  
18 of your duties as a business agent, do you handle  
19 construction for Local 215?

20 A. Yes.

21 Q. And does that involve various employers at various  
22 job sites in local's jurisdiction?

23 A. Yes.

24 Q. So you, as part of your regular job duties, you go  
25 to job sites to meet with employers and members that are

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1 working on those job sites?

2 A. Correct.

3 Q. All right. And as best you can, we're just going  
4 to ask you to identify, if you can recall, where these  
5 pictures were taken and when.

6 Q. Okay.

7 A. Exhibit A here.

8 JUDGE KEY: And just so the record's clear, your  
9 reference Charging Party Exhibit 4A, correct?

10 MR. MORRIS: I believe we've labeled this as  
11 Charging Party Exhibit 1, Your Honor.

12 JUDGE KEY: Okay. So we're on Charging Party  
13 Exhibit 1A, go ahead.

14 **(Charging Party's Exhibit 1A is marked for**  
15 **identification.)**

16 THE WITNESS: Okay. Yes. This -- this was taken at  
17 -- at Ragle, their job site or their -- their home  
18 office if you will or Vann Road. And those are the --  
19 the Falcon trucks. And I do believe at this time it's  
20 been -- it's been a minute, but I believe that the --  
21 that the names was taken off the door. But it was at  
22 the Ragle yard.

23 Q. And how do you know those were the Falcon trucks?

24 A. I mean, that -- that's -- that's the trucks that  
25 they've had there, you know, on their -- on their job.

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1 Q. Since 2016?

2 A. Yeah.

3 Q. Okay. If we could move to B.

4 **(Charging Party's Exhibit 1B is marked for**  
5 **identification.)**

6 JUDGE KEY: So would you scroll back up just -- and  
7 I'd like you to please make the record clear. Because  
8 -- so there's -- there's a note on the bottom of  
9 Charging Party's Exhibit 1A that says, "Photo taken in  
10 February 2019 at Ragle shop with two Falcon trucks in  
11 front."

12 This is a photo that you took in February of -- 1A  
13 is a February -- a photograph you took in February of  
14 2019?

15 THE WITNESS: Yes, ma'am.

16 JUDGE KEY: All right. So if you'll please make  
17 the record clear, Mr. Morris, go ahead.

18 MR. MORRIS: Thank you, Your Honor.

19 Q. BY MR. MORRIS: All right. So next is Exhibit B  
20 and the note -- and you can see the note.

21 Can you tell us about that?

22 A. Yeah. It was -- it was taken January 10, 2021 in  
23 Chandler, Indiana on -- on State Street. It was parked  
24 there at a -- well, on -- on State Street.

25 Q. And did you take the photo?

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1 A. Yes.

2 Q. All right. And do you recognize this as being a  
3 former Falcon truck or is this just a Ragle

4 A. This is a Ragle truck.

5 Q. And what kind of job was this?

6 A. I'm not really -- I'm not really 100 percent sure.

7 Q. Okay. But it was in Chandler on State Street?

8 A. Yeah, yeah.

9 Q. Okay. C?

10 **(Charging Party's Exhibit 1C is marked for**  
11 **identification.)**

12 A. Okay. That -- that is a Ragle -- Ragle -- I  
13 believe it's a Ragle single axle and -- let -- let me  
14 look at -- no, I'm sorry. I'm sorry, that is a  
15 RiverTown truck. Yeah, that's a -- that's a RiverTown  
16 truck on a job and -- yeah, I could see it on the big  
17 screen.

18 Q. Okay. So RiverTown is a concrete contractor or?

19 A. It is. It's -- it's a -- it's to my understanding  
20 that RiverTown is also owned by Ragle and that's a  
21 RiverTown truck on a job site. And I'm not -- I'm not  
22 100 percent sure, you'd have to scroll down. It's been  
23 a minute since I took the pictures. It's either in  
24 Booneville. Okay. Yeah. It says April 30, 2021,  
25 that's in States -- on State Street in Booneville.

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1 Q. Did you take the picture at that time?

2 A. I did.

3 Q. All right. Let's move on to the next one.

4 **(Charging Party's Exhibit 1D is marked for**  
5 **identification.)**

6 Q. It is a single axle truck, can you tell us about  
7 this one?

8 A. That's -- that's a single axle truck, a Ragle, --  
9 owned by Ragle and I'm -- I'm not 100 percent sure but I  
10 think that was taken on Lincoln, Lincoln Avenue in  
11 Chandler. Okay.

12 Q. Did you take that picture?

13 A. I did.

14 Q. All right. And E, what is that?

15 **(Charging Party's Exhibit 1E is marked for**  
16 **identification.)**

17 A. Yeah, that's -- that's another picture of a Ragle  
18 truck.

19 Q. Do you know what kind of job this was in  
20 Booneville?

21 A. I think that's -- I think that's on -- on Main  
22 Street in Booneville as well.

23 Q. Okay. Did you take that picture?

24 A. I did.

25 JUDGE KEY: And E is who's truck?

1 THE WITNESS: Ragle, a Ragle truck.

2 Q. BY MR. MORRIS: All right. And the next is a  
3 series of pictures, can you tell us about those?

4 **(Charging Party's Exhibit 1F is marked for**  
5 **identification.)**

6 A. Yeah. Those were taken at a job on a highway in --  
7 in Petersburg and I don't know, I think -- yeah, 61 in  
8 Petersburg.

9 Q. Can you tell anything about how those trucks were  
10 labeled?

11 A. They are -- that one there is a Ragle -- Ragle  
12 truck. That was Ragle.

13 Q. It looks like they're all Ragle?

14 A. Yeah.

15 Q. And you took that picture, Exhibit F?

16 A. Yes.

17 Q. Okay. We're down to G.

18 **(Charging Party's Exhibit 1G is marked for**  
19 **identification.)**

20 A. Okay. That was a picture of a Ragle truck and that  
21 was taken at A.B. Brown Power Plant, Center Point.

22 Q. Are you familiar with A.B. Brown, what goes on  
23 there?

24 A. It -- yeah. A little bit. I mean, it's a -- it's  
25 a power -- a power plant and Ragle had -- had the truck

1 parked there on the same -- I took that picture the same  
2 date as I took the one in Petersburg, I do remember  
3 that. That was this year.

4 Q. All right. And we'll move down to the next one  
5 which is H.

6 **(Charging Party's Exhibit 1H is marked for**  
7 **identification.)**

8 A. Okay.

9 Q. Did you take that one?

10 A. Yeah. That was -- that's a Ragle -- a Ragle truck  
11 on a job site in Petersburg again. And I believe it's  
12 -- I believe it's Highway 61.

13 Q. Did you take that one?

14 A. I did.

15 Q. All right. We're onto, this is L -- H, I, excuse  
16 me, I.

17 **(Charging Party's Exhibit 1I is marked for**  
18 **identification.)**

19 A. Okay.

20 Q. The caption says something as being an old Falcon  
21 truck, can you tell us what you mean there?

22 A. That was -- yeah. I can't -- I can't make it out.  
23 I believe -- is that --

24 Q. Here's the caption that you put on there.

25 A. Yeah, it must be operated by Samm. I think --

1   okay.  Yeah, that was tagged on the 23rd -- the 23rd  
2   June.  It's up there on the Petersburg project and it's  
3   on the Highway 61 and that was -- that truck was parked  
4   at the same job site and that got Samm, S-A-M-M.  And  
5   that was an old Falcon truck to my understanding.  And  
6   Samm, if I'm -- if I'm not mistaken, Samm was an  
7   operator that used to work for Ragle and he went into  
8   trucking and I believe he bought that truck and maybe  
9   another one or two -- of the Falcon trucks.

10  Q.  How do you know that it was a Falcon truck?

11  A.  I think, if I'm not mistaken, I think you could  
12  tell that decal was -- was there.  And -- and I -- I do  
13  believe, of course this is hearsay, but -- but I had  
14  heard that he had bought some.

15  Q.  Okay.  All right.  At the time you took this in  
16  June, you looked at it and --

17  A.  It was -- yes.

18  Q.  -- concluded it was an old Falcon truck?

19  A.  Uh-huh.  Yes.

20  Q.  Okay.  And you took this picture?

21  A.  I did.

22  Q.  The next one is here.  It looks like RiverTown.

23  **(Charging Party's Exhibit 1J is marked for**  
24  **identification.)**

25  A.  That's a RiverTown, that was -- that was at a

1 McDonald's. And that was taken this year as well on  
2 Highway 41 on Kentucky Avenue or Washington Avenue  
3 rather.

4 Q. You took that picture which were calling J?

5 A. Yes.

6 Q. And we're at K now.

7 **(Charging Party's Exhibit 1K is marked for**  
8 **identification.)**

9 Q. That's some kind of job site here, can you tell us  
10 what that's all about?

11 A. Okay. That was taken this year as well. That was  
12 taken at -- in Henderson, Kentucky and -- and I -- and  
13 what they was -- what they was doing, they was taken  
14 rock from one side of the road in Henderson, Kentucky.  
15 There's an operator there loading that, if you're slow  
16 -- slow down a little bit.

17 That -- right there, that picture there, there's an  
18 operator loading the truck and that's a Ragle truck and  
19 he loads it and then the Ragle truck, he'll drive across  
20 the intersection and -- and he was dumping it on the  
21 other -- on the other side of the -- on the other side  
22 of the road. So those -- those pictures there is the  
23 same -- it was the same truck and it was at the, you  
24 know, I mean, he was driving across that highway there  
25 and I don't know the name of the road that he was

1 driving it across. But it was -- he was back and forth,  
2 back and forth all day and the operator was loading it.

3 Q. Okay, and you took those photos on --

4 A. I did.

5 Q. Okay.

6 A. Yes, I did.

7 Q. All right. I'll scroll down now to what we're  
8 calling, let's see, this should be L, there we go.

9 **(Charging Party's Exhibit 1L is marked for**  
10 **identification.)**

11 Q. Are you familiar with this one?

12 A. Okay. These -- that was taken -- I believe that  
13 was taken and the Henderson -- there's a new bridge that  
14 -- a 69 project and -- and those pictures was taken at  
15 that -- at that project there.

16 Q. And this is a bridge that's going to go where?

17 A. It's going to go from Henderson across -- across  
18 the river to -- well, it's a 69 project. So it's a big  
19 -- big project. But both of those trucks have got Ragle  
20 on the -- on the side.

21 Q. And you took these -- that picture -- these  
22 pictures?

23 A. I did. I did.

24 Q. All right. Were these -- these jobs we all had the  
25 pictures of, Mr. Brown, where they are within Local

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1 215's jurisdiction?

2 A. Yes.

3 Q. All right. Have you subsequently learned who was  
4 operating those trucks on the projects you took pictures  
5 of?

6 A. The -- what I was told, one of the guys -- well, I  
7 talked to one of the guys in Henderson and he was an  
8 operator, and -- and then -- but I'm told it's more --  
9 more laborers.

10 Q. Okay. I'm missing one exhibit here. Okay. Earl,  
11 I've got it on the screen here I think, are you seeing  
12 the Heavy Highway Agreement?

13 **(Charging Party's Exhibit 4 is marked for**  
14 **identification.)**

15 A. Yes. Yes.

16 Q. All right. Can you explain to Her Honor, how this  
17 agreement works in construction in [inaudible].

18 A. Okay. This is -- this is an agreement with a Heavy  
19 Highway and the Indiana Association, construction  
20 association and basically this -- this contract is, you  
21 know, it spells out the wages, the prevailing wages and  
22 -- and stuff so if you -- if you sign this agreement  
23 than you -- then you fall by the -- the Heavy Highway  
24 Agreement. I mean, if you -- if you signatory with it.

25 Q. And is it set forth the wages and terms and

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1 conditions of employment for construction workers  
2 working under Local 215's jurisdiction?

3 A. Yes.

4 Q. All right. And so those operators you just  
5 referred to, would they also be working under the Heavy  
6 Highway Agreement or do you know?

7 A. They are.

8 Q. Okay. And so that would mean that Ragle is  
9 obtaining operators to drive trucks through the Heavy  
10 Highway Agreement?

11 A. Correct.

12 Q. All right. And has Ragle seen fit to -- to  
13 participate in the Heavy Highway Agreement insofar as  
14 the Teamster part of that is concerned?

15 A. No.

16 Q. All right. And Mr. Brown, is it normal on  
17 construction jobs such as your -- what we're looking at  
18 that you took pictures of today, to have operators  
19 driving dump trucks and Teamsters -- to the exclusive of  
20 Teamsters with Teamsters not a party to the -- to the  
21 job?

22 A. No.

23 MR. MORRIS: All right. We'd like to offer what  
24 we've got labeled as Charging Party's Exhibit 1 and 4.

25 JUDGE KEY: Okay. So this contract was Charging

1 Party 4?

2 MR. MORRIS: Correct.

3 JUDGE KEY: Let's start with one. Mr. Garrison,  
4 any objection?

5 MR. GARRISON: Yes, we object based on the  
6 relevance of those documents, Judge Key.

7 JUDGE KEY: All right. Are there any of 1A through  
8 L that you do not have an objection to or do you object  
9 to all 1A through 1L?

10 MR. GARRISON: No, we object to all 1A through 1L.

11 JUDGE KEY: Okay.

12 *[Long pause]*

13 JUDGE KEY: Let's go to -- and which -- and --

14 MR. MORRIS: Do you care for a general response,  
15 Your Honor?

16 JUDGE KEY: Yes, go ahead.

17 MR. MORRIS: Without reviewing each one  
18 individually which I don't think is necessary since  
19 there are all the same genre, the employer contends it  
20 legitimately went out of the trucking business. We've  
21 seen the withdrawal of recognition letter and found the  
22 one employee with the recognition. And to the extent  
23 it's relevant to these proceedings, and we realized that  
24 these are very defined as to what the issues are before  
25 Your Honor, but it's clear that Ragle, whether it was

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1 RiverTown trucks, old Falcon trucks or Ragle trucks  
2 continued in the trucking business and use up to date.  
3 We're not making any particular jurisdictional issue out  
4 of who's doing the trucking, but it's clear that Ragle,  
5 which is a party, as a joint employer to the Settlement  
6 Agreement, is still in the trucking business and that's  
7 the only purposes for which these photos are offered.  
8 There's -- we're not making and particular monetary  
9 claim or -- or anything like that related to any  
10 individual photograph.

11 JUDGE KEY: So --

12 MR. MORRIS: Maybe that explains it a little  
13 better.

14 JUDGE KEY: There's -- there was one picture that I  
15 had it written down, that referenced -- 1C is a  
16 RiverTown truck. What is -- what would be the -- what  
17 would -- I don't -- is -- is RiverTown pled anywhere in  
18 any of the documents?

19 MR. GARRISON: No, it's not, Judge Key. It's a  
20 separate -- it's not a party to this proceeding and it's  
21 not relevant as to anything that has anything to do --

22 JUDGE KEY: So I was asking, Mr. Morris.

23 MR. GARRISON: Oh, I'm sorry.

24 JUDGE KEY: That's okay.

25 MR. GARRISON: I thought that you were directing

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1 that to me. I apologize.

2 JUDGE KEY: It's okay. Mr. Morris, what is the  
3 relevance of Exhibit 1C?

4 MR. MORRIS: We've had testimony, Your Honor, that  
5 the premise of Ragle, Falcon, RiverTown is one premise,  
6 one set of bosses, one set of offices and absolutely  
7 correct, there's no pleading as to RiverTown. But if  
8 the employer directed its Falcon work to RiverTown which  
9 it also maintains control over, and I'm sure the  
10 employer will present evidence to the contrary, but then  
11 that could be relevant.

12 And again, you know, the employer taking what was  
13 left of Falcon and ferrying it out to Ragle and  
14 RiverTown, is evidence of the fact that it, in our view,  
15 that it go out.

16 JUDGE KEY: Do you have evidence that any of the --  
17 that -- do you have -- okay. I am not -- I'm going to  
18 start with I'm not -- I'm going to not admit 1C. Were  
19 any of the -- I've tried to go through these, I couldn't  
20 see the whole -- the whole photo on the screen, where  
21 any of these other pictures related to any of  
22 RiverTown's trucks?

23 **(Charging Party's Exhibit 1C is rejected.)**

24 MR. GARRISON: Yes, 1J, Judge Key. The photo taken  
25 on July 23, 2022, it says it's owned by Ragle, there is

1 no testimony or evidence to that effect. And from the  
2 picture and from Mr. Brown's testimony it appears that  
3 it says RiverTown on the side.

4 JUDGE KEY: All right. What would be the  
5 admissibility -- yeah, I didn't have any -- any notes  
6 about -- okay. What would be the relevance of 1J, Mr.  
7 Morris?

8 MR. MORRIS: Your Honor, the same as the previous  
9 exhibit that you have -- you have declined to admit.

10 JUDGE KEY: All right. I am not going to admit 1J  
11 or 1 -- yes. These pictures -- all right.

12 **(Charging Party's Exhibit 1J is rejected.)**

13 We're going to go through these pictures and I'm  
14 going to -- Mr. Brown, with regard to Exhibit 1A, you --

15 MR. MORRIS: I'm going to put them back on the  
16 screen so the witness can see them again, Your Honor.  
17 Would that be all right?

18 JUDGE KEY: Sure. With regard to Exhibit 1A.

19 MR. MORRIS: I'm doing my best, here, let's see.

20 THE WITNESS: I think I know which one you're  
21 talking about. It's the two trucks in front of Ragle.

22 JUDGE KEY: Uh-huh.

23 MR. MORRIS: Okay. If you know then I won't --

24 THE WITNESS: I know that one, that's -- that's the  
25 one --

1 JUDGE KEY: Yeah, he's going to need to see the  
2 other ones, so.

3 THE WITNESS: Yeah. Yeah.

4 MR. JOHNSON: Hey, Sam, let me -- Sam, I'll pull  
5 them up since you're -- you're involved in the dispute  
6 more than I am. So I'll pull those up so.

7 MR. MORRIS: That would be great.

8 JUDGE KEY: Were these -- what was the signage on  
9 the trucks at the time you took the photographs of  
10 Exhibit 1A?

11 THE WITNESS: I do not believe -- I do not believe  
12 they had a signage on that -- on those trucks at that  
13 time. I --

14 JUDGE KEY: And -- and you've said that the photo  
15 -- that there's a -- that there's a marking on it that  
16 says two Falcon trucks.

17 What if anything led you to believe or that these  
18 were Falcon trucks?

19 THE WITNESS: Because they -- that's where they had  
20 -- that's in the front -- that's in the front of the  
21 building. But they had parked them in the back and they  
22 had them sitting there for a long time and -- and then  
23 they pulled them up front.

24 I don't know -- and I'm not going to go say because  
25 I don't know, but at that time it's my understanding

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1     that they was -- that they was Falcon trucks.

2             JUDGE KEY:   And what lead you to say that?

3             THE WITNESS:   Because they wasn't in the back where  
4     they was parked.   Because I live right by there and I've  
5     seen them in the -- in the back for a long time and they  
6     wasn't in back and it was up front where I could get a  
7     picture.

8             MR. GARRISON:   Your Honor, if I may, our objection  
9     on this document is also based on the fact that it's not  
10    even a complete photo Of the two trucks that Mr. Brown  
11    claims he understood were former Falcon trucks.

12            JUDGE KEY:   Well, I agree with you that there's --  
13    there's -- that the photograph shows the body of one  
14    truck and the front end of a second truck.   I don't  
15    disagree with you.

16            MR. GARRISON:   And Judge Key, there is evidence in  
17    the record already in the form of a stipulation as to  
18    the trucks that Ragle owns, as well as the disposition  
19    and the dates of disposition of Falcon trucks.   That's  
20    already in the record as well.   Which -- which frankly  
21    to the extent that's even -- that's relevant, that's the  
22    -- the evidence on which we submit should be -- this  
23    should be limited and anything beyond that, particularly  
24    a photo in 2019 of a portion of two trucks where you  
25    can't make out any signage on those trucks, simply --

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1 simply isn't relevant here.

2 MR. MORRIS: Your honor, if I might respond.

3 JUDGE KEY: Yes, please do.

4 MR. MORRIS: Mr. Brown stated he lives right near  
5 there. He's seen these trucks going by there every day  
6 and they're -- they're still there. He says they didn't  
7 have signage on them and that they predated Falcon's  
8 demise. So if we want to discount his testimony and say  
9 he's lying today, I guess we shouldn't admit it. But  
10 with that I think they're relevant for what it's worth.

11 Also I agree and Brian and I were able to reach  
12 that stipulation but that doesn't exclude us providing  
13 testimony and the photographs as we -- as we've noted,  
14 so.

15 JUDGE KEY: I don't -- okay. Mr. Brown, what if  
16 anything can you personally tell me from what you've --  
17 what you've seen based on where you live or what you  
18 know, do you know, whether the -- let's start with this  
19 question.

20 Do you have any knowledge about whether the two  
21 trucks in the photograph mark Charging Party Exhibit 1A  
22 were at one time Falcons trucks?

23 THE WITNESS: I can -- I can say 99 percent yes,  
24 that those are -- those were the Falcon trucks.

25 JUDGE KEY: And what based on your personal

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1 knowledge or what you've seen leads you to say that you  
2 believe the two trucks in -- in 1A, were at one time  
3 Falcon's trucks?

4 THE WITNESS: Well because like I -- like I said  
5 earlier, I've seen those trucks in the back parked  
6 before and then on this particular day they was not  
7 parked in the back and they was parked up front and they  
8 -- and -- and if those were the same Falcon trucks that  
9 at one point was in the -- in the back.

10 JUDGE KEY: I will admit Exhibit 1, Charging Party  
11 Exhibit 1A.

12 **(Charging Party's Exhibit 1A received into evidence.)**

13 JUDGE KEY: Moving to Charging Party Exhibit 1B.  
14 What is the relevance of Charging Party Exhibit 1B, Mr.  
15 Morris?

16 MR. MORRIS: Your Honor, as I said, Ragle remained  
17 in the trucking business and here we are in 2021 Ragle  
18 doing normal trucking work on a job site as a joint or  
19 single employer with Falcon where it maintained it went  
20 out of business in 2016. The same relevance that the  
21 stipulation Brian agreed to as which we've all agreed  
22 goes in.

23 MR. GARRISON: And Judge Key, if I may?

24 JUDGE KEY: Of course.

25 MR. GARRISON: So one, the evidence from the two

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1 witnesses we've had already today is that the Falcon  
2 trucks at issue here we're at one point in time a quad-  
3 axle dump truck but at the relevant time tri-axle dump  
4 trucks.

5 Not any sort of single axle dump truck that Falcon  
6 operated in the course of its operations for its  
7 customers. The fact of a -- of a Ragle single axle that  
8 is present on a job site in ancillary support of Ragle's  
9 construction operations, which is not in the trucking  
10 business as Mr. Morris contended, simply isn't relevant  
11 to this case.

12 This case is about Falcon's operations and  
13 assignment practices. And Falcon's operations were  
14 limited to providing tri-axle hauling work for third  
15 party customers, not single axles the way these pictures  
16 -- Exhibit B and many others depict.

17 JUDGE KEY: For what it's worth, I'm going to admit  
18 Exhibit 1B.

19 **(Charging Party's Exhibit 1B received into evidence.)**

20 JUDGE KEY: 1C I've rejected. 1D I will admit.

21 **(Charging Party's Exhibit 1D received into evidence.)**

22 JUDGE KEY: 1E I will admit.

23 **(Charging Party's Exhibit 1E received into evidence.)**

24 JUDGE KEY: 1F I will admit.

25 **(Charging Party's Exhibit 1F received into evidence.)**

1 JUDGE KEY: 1G I will admit.

2 **(Charging Party's Exhibit 1G received into evidence.)**

3 JUDGE KEY: 1H I will admit.

4 **(Charging Party's Exhibit 1H received into evidence.)**

5 JUDGE KEY: Okay. Mr. Brown, can you see 1I?

6 THE WITNESS: Yes, ma'am.

7 JUDGE KEY: Do you know who owns Samm Trucking?

8 THE WITNESS: I don't know the gentleman

9 personally. But it was -- the owner of Sam trucking was  
10 an operator that used to work for Ragle, he may still  
11 work for Ragle as an operator but he owns Samm Trucking.

12 JUDGE KEY: But you don't know this person's name?

13 THE WITNESS: No, ma'am.

14 JUDGE KEY: What's the relevance of this document,  
15 Mr. Morris?

16 Q. BY MR. MORRIS: Mr. Brown, that caption says it's  
17 an old Falcon truck, can you tell us how you came to  
18 that conclusion?

19 A. Yeah. I -- I believe -- I believe that -- that you  
20 can see the Falcon on the door which this Samm was over  
21 the top of it. But also that I was -- I was told again,  
22 this is hearsay, but I was told that Samm, the owner of  
23 Samm bought one or two of the Falcon trucks. I don't  
24 know that to be 100 percent accurate but that's what I  
25 was told.

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1 JUDGE KEY: I'm going to reject Exhibit 1I.

2 **(Charging Party's Exhibit 1I is rejected.)**

3 I've already rejected 1J. Mr. Brown, what is the  
4 signage on --

5 THE WITNESS: IK?

6 JUDGE KEY: -- I'll admit 1K. I'll admit 1K.

7 **(Charging Party's Exhibit 1K received into evidence.)**

8 JUDGE KEY: I'll admit 1L.

9 **(Charging Party's Exhibit 1L received into evidence.)**

10 JUDGE KEY: All right. Go ahead -- and with regard  
11 to exhibit -- Charging Party Exhibit 4, what is the  
12 relevance of Charging Party's Exhibit 4, Mr. Morris?

13 MR. MORRIS: Charging Party's Exhibit 4 goes  
14 directly to what's referenced in the stipulation. The  
15 stipulation number 2 states that at all times since the  
16 mid-1990s Ragle has been party to collective bargaining  
17 through Laborers International Union and the  
18 International Union operate in engineers.

19 And as Mr. Brown's testimony as -- as revealed the  
20 same agreement also has a Teamster component which the  
21 employer and the Respondent here has refused to sign.  
22 So just so it's clear that there's not a separate  
23 agreement with the other trades that isn't the Heavy  
24 Highway Agreement, this is the Teamster version of the  
25 Heavy Highway Agreement. The employer has been using

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1 operators and laborers to do its trucking work since the  
2 demise of Falcon.

3 JUDGE KEY: Mr. Garrison, what's your response to  
4 the admissibility of Charging Party Exhibit 4?

5 MR. GARRISON: Judge Key, we object on the  
6 relevance of that document. There is no evidence that  
7 either Falcon or Ragle, the only two parties in this  
8 case were ever a part of the Teamsters Heavy Highway  
9 Agreement.

10 We fail to see how a current -- what appears to be  
11 current or immediately prior or recently expired  
12 Teamsters Heavy Highway Agreement when it's not -- were  
13 neither of the parties to this case or a signatory to  
14 that contract, has any relevance to the issues of  
15 Falcon's operations and assignment practices under the  
16 Settlement Agreement.

17 MR. MORRIS: Can I --

18 JUDGE KEY: I'll give you another opportunity to  
19 respond, Mr. Morris. But for the life of me I can't  
20 figure out how it goes to the issue of whether or not  
21 Respondent breached its -- the Settlement Agreement.

22 MR. MORRIS: Derek, could you put the stipulation  
23 on the screen if you're able to? So I don't, subject to  
24 my fooling around trying to get it up there.

25 Yep. So, Your Honor, it's exactly the opposite of

1    what -- what Brian is saying. The point here is the  
2    employer has dodged the use of Teamsters which it had a  
3    contract with or had a Board stipulation -- a Board  
4    certification with and used operators and laborers to do  
5    its work since it put Falcon down.

6           This is the agreement under Section 2 that it's the  
7    same agreement they had. This is not some totally  
8    separate agreement. There is a thing called the Indiana  
9    Heavy Highway Agreement which all the building trades  
10   are party to. And normally -- it's a pre-job agreement  
11   and normally employers will sign with all the trades,  
12   this employer has not.

13          So the point of this agreement is not to show that  
14   Ragle agreed to it, the point is to show that it refused  
15   to agree to it and it used operators to do its work.  
16   This completes the picture of what the employer  
17   stipulated to and this exhibit you're looking at now,  
18   this would be the same agreement, the collective  
19   bargaining we had referenced in Section 2, that it would  
20   have signed with the Teamsters had it used Teamsters to  
21   do all this work that Mr. Brown has just testified about  
22   and taking pictures up. Thank you.

23          MR. GARRISON: And Judge Key, our objection still  
24   stands. The stipulation clearly states the collective  
25   bargaining relationship to which Ragle, Incorporated is

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1 a party, but the exhibit that the Union is attempting to  
2 introduce into evidence is a Heavy Highway -- Highway  
3 Heavy Railroad and Underground Utility contract  
4 agreement between Indiana Constructor, Inc., Labor  
5 Relation Division and the Teamsters Joint Council member  
6 69 from April 1, '22 to March 31, 2027.

7 That simply isn't relevant to any issue in this  
8 case despite Mr. Morris' attempt to claim that the --  
9 that Ragle, Incorporated has somehow dodged anything.

10 MR. MORRIS: And Your Honor, I would ask Brian to  
11 tell us the agreement that he refers to and has agreed  
12 to refer to and Section 2 of the stipulation that's --  
13 that is party -- it is party to with the operators and  
14 the laborers.

15 It is, unless Brian wants to correct me, the Heavy  
16 Highway Agreement that is also referenced in the  
17 exhibits. So obviously, Your Honor, this is probably  
18 not the determinative exhibits in these proceedings, but  
19 it completes the picture of the stipulation and all the  
20 photographs that Earl has taken on a normal construction  
21 job where the employer has -- is party to heavy highway.

22 The operators that do operator work, the laborers  
23 do labor work and the Teamsters to do Teamster work.  
24 Here Ragle has refused to sign and that's the point, it  
25 hasn't signed the Heavy Highway Agreement with the

1 Teamsters.

2 JUDGE KEY: Well, I bet Mr. Garrison would  
3 stipulate to that but I'm going to reject this exhibit.  
4 Go ahead. I reject Charging Party's Exhibit 4. You're  
5 welcome to put Charging Party Exhibit 4, 1C, 1I, 1 --  
6 the documents I rejected, you're welcome to put it in a  
7 rejected exhibit file should you choose to do so.

8 **(Charging Party's Exhibit 4 is rejected.)**

9 MR. MORRIS: Sure. We'll do that. Thank you, Your  
10 Honor. And you mentioned that Brian would stipulate to  
11 the fact that --

12 JUDGE KEY: You know what, that was my comment,  
13 let's move forward.

14 MR. MORRIS: Yeah. Okay. I'd like to ask Brian if  
15 he would agree that --

16 JUDGE KEY: No. Well, you're going to -- you  
17 direct your comments to me and -- and let's go forward.  
18 You can -- you can ask their witnesses questions, you're  
19 not going to ask counsel questions, proceed.

20 MR. MORRIS: Thank you, Your Honor. We'll do that  
21 through the employer witnesses.

22 That concludes my questions of Mr. Brown.

23 JUDGE KEY: All right. Do you have any further --  
24 further witnesses, Mr. Morris?

25 MR. GARRISON: Judge Key, before we move on from

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1 Mr. Brown --

2 JUDGE KEY: So you're excused Mr. Brown. If you'll  
3 give him the admonitions in regard to the sequestration.

4 Is that your last witness, Mr. Morris?

5 MR. MORRIS: Yes, Your Honor.

6 JUDGE KEY: All right.

7 MR. GARRISON: Judge Key, I'm sorry, I haven't had  
8 an opportunity --

9 JUDGE KEY: Oh, excuse me.

10 MR. GARRISON: -- to cross.

11 JUDGE KEY: I apologize. Go ahead, Mr. Garrison.

12 MR. GARRISON: Are there any Jencks statements for  
13 this witness?

14 MR. JOHNSON: Your Honor, there -- General Counsel  
15 may have Jencks material for this witness but General  
16 Counsel did not call him as a witness so I don't think  
17 Jencks material is applicable.

18 JUDGE KEY: That's -- that's correct. Go ahead.

19 MR. GARRISON: Okay. I'd like just a few minutes  
20 to confirm with my client and to review any questions I  
21 may have for Mr. Brown on cross-examination.

22 JUDGE KEY: All right. We'll be in recess until  
23 12:00 P.M. central time.

24 *[Off the record]*

25 MR. GARRISON: I don't have any cross-examination

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1 for Mr. Brown, Judge Key.

2 JUDGE KEY: All right. How long would you like for  
3 a break before we call your next witness?

4 MR. GARRISON: Are you asking -- I don't know --

5 JUDGE KEY: Yes. I'm inclined to take an hour  
6 break for lunch.

7 MR. GARRISON: Yes, that would be great if we could  
8 take an hour break and then we can present our --  
9 present our first witness.

10 JUDGE KEY: All right. We will resume at 1:00 P.M.  
11 Central Standard Time.

12 MR. MORRIS: Thank you, Your Honor.

13 MR. GARRISON: Thank you.

14 *[Off the record]*

15 MR. GARRISON: We'll call Sam Ragle.

16 JUDGE KEY: Sam Ragle, please raise your right  
17 hand.

18 (Whereupon,

19 **SAM RAGLE**

20 having been sworn/affirmed, was called as a witness  
21 herein, and was examined and testified via video-  
22 conference, as follows:)

23 JUDGE KEY: You may proceed.

24 MR. GARRISON: Thank you very much, Judge Key.

25 DIRECT EXAMINATION

- 1 Q. BY MR. GARRISON: Could you just state your full  
2 name for the record?
- 3 A. Samuel -- Samuel R. Ragle.
- 4 Q. And Sam, what year were you born?
- 5 A. 1949.
- 6 Q. So how old are you presently?
- 7 A. I'm 73.
- 8 Q. And are you employed currently?
- 9 A. No, I'm not.
- 10 Q. So are you -- are you retired?
- 11 A. Yes, semi-retired. Yes.
- 12 Q. And you say you're semi-retired, what do you mean?
- 13 A. I still come into the office at times and see kind  
14 of what's going on a little bit. And -- and see what --  
15 how they're going, things are going.
- 16 Q. And when you say come into the office, I take it  
17 you mean Ragle, Incorporated's office?
- 18 A. Yes, Ragle, Incorporated's office, yes.
- 19 Q. Do you currently receive a paycheck from Ragle,  
20 Incorporated?
- 21 A. I do not.
- 22 Q. But before you moved into that semi-retirement, you  
23 were employed by Ragle, Incorporated, right?
- 24 A. Yes, I was.
- 25 Q. And you were founder of Ragle, Incorporated as

1 well?

2 A. Yes, I was.

3 Q. Do you still have an ownership interest in Ragle,  
4 Incorporated?

5 A. Yes, I do.

6 Q. When did you say roughly you started transitioning  
7 into your retirement, Sam?

8 A. I had open heart surgery in 2012 and my health  
9 started to fail me at that time and basically I was 63  
10 so about that time I was 65 and in that range, I started  
11 transferring into retirement. And I did it because of  
12 health and because I was just getting so old I wanted to  
13 get out of business and enjoy life a little bit.

14 Q. So when you were 65, that would have been in about  
15 2014; is that right?

16 A. Yes. Yes.

17 Q. And since -- since 2014 have you had much  
18 involvement with the day-to-day operations or management  
19 of Ragle's business?

20 A. I do not.

21 Q. And have you transitioned that management to  
22 others?

23 A. Yes, I have.

24 Q. To whom?

25 A. To Scott York, to Jason and to Troy.

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- 1 Q. When you say Jason and Troy --
- 2 A. Jason Ragle and Troy Ragle are my sons.
- 3 Q. And what's Scott York's position?
- 4 A. He's president of Ragle, Incorporated.
- 5 Q. Sam, did you also have an ownership interest in a
- 6 business called Falcon Trucking, LLC?
- 7 A. I did. Yes, I did.
- 8 Q. And did Ragle, Incorporated have an ownership
- 9 interest in that business?
- 10 A. Ragle, Incorporated did not own any part of Falcon,
- 11 no.
- 12 Q. Was -- was Falcon certified as a disadvantaged
- 13 business enterprise or DBE?
- 14 A. No, they weren't.
- 15 Q. Was Falcon certified as a minority business
- 16 enterprise or MBE?
- 17 A. No, they weren't.
- 18 Q. And was Falcon certified as a women owned business
- 19 enterprise or a WBE?
- 20 A. No, it wasn't.
- 21 Q. So just based on its name I take it Falcon was a
- 22 trucking business?
- 23 A. That's what it was, yes.
- 24 Q. And what type of trucking work did Falcon perform?
- 25 A. We performed tri-axle hauling with dirt work and

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1 stone, very seldom asphalt and basically stone and dirt  
2 work, things like that.

3 Q. And you haul those types of materials to and from  
4 construction sites?

5 A. Yeah, haul -- haul the materials to and from the  
6 construction sites, yes.

7 Q. And what kind of trucks did Falcon use to perform  
8 that work?

9 A. Mostly about 90 percent tri-axles. I think we  
10 tried to buy a couple of quads and trying to use them  
11 but they weren't available -- it didn't work out very  
12 well so we got rid of them and went to tri-axle trucks.

13 Q. And those are dump trucks, right, Sam?

14 A. Dump trucks, yes.

15 Q. And so just in -- how would you describe what a  
16 tri-axle dump truck is?

17 A. Well it's got -- it's got three axles on the back  
18 end and it's got a dump truck and a dump bed that dumps  
19 -- dumps material out of it.

20 Q. And roughly about how much material can one of  
21 those tri-axle dump trucks haul?

22 A. About 20 ton.

23 Q. And I presume those are often what -- just when  
24 you're normally driving down the highway we'd see a lot  
25 of highway construction project?

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1 A. Yeah. Probably -- yes, probably most of them.

2 Q. And does some of that have a raised axle as well  
3 that can be lowered based on the --

4 A. Yeah. Sometimes a third axle can be raised or just  
5 raised to prevent -- to help, you know, being hauled  
6 when it's not being -- when it's not loaded it raises  
7 that axle up so it doesn't hurt the tires as much.

8 Q. So those three axles are on the back of the truck?

9 A. Yes. In the back of the truck, yes.

10 Q. Okay. How does -- from a hauling perspective, how  
11 does that tri-axle dump truck differ than a single axle  
12 dump truck?

13 A. Well, a tri-axle dump truck hauls about 20 tons, a  
14 single axle hauls maybe 5 tons, something like that.

15 Q. Did Falcon ever use any other types of trucks  
16 besides tri-axle dump trucks or on occasion quad axle  
17 dump trucks that would perform work for its customers?

18 A. No, it didn't.

19 Q. Okay. Did Falcon ever use any single axle dump  
20 trucks to service its customers?

21 A. No, they didn't.

22 Q. And did Falcon ever use any assets beyond tri-axle  
23 dump trucks and quad axle dump trucks you mentioned, to  
24 service its customers?

25 A. No, they didn't.

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1 Q. The employees Falcon had, we've heard from a couple  
2 of them already today, do they work as drivers of those  
3 tri-axle dump trucks?

4 A. Yes. Yes, they did.

5 Q. And what qualifications did they have to have to be  
6 able to do that?

7 A. They have to be DOT certified and have a CDL  
8 license, certified from a national standpoint.

9 Q. When you say a CDL, is there a certain class of CDL  
10 that they have to have?

11 A. Type A.

12 Q. And did Falcon ever employ anyone other than  
13 drivers of tri-axle dump trucks?

14 A. Repeat that question?

15 Q. Did Falcon ever employ anyone other than drivers of  
16 tri-axle, I guess quad axle dump trucks?

17 A. No.

18 Q. Sam, where, geographically speaking, did Falcon  
19 perform this tri-axle hauling work?

20 A. Within an hour of Newburgh, Indiana where our  
21 office is located.

22 Q. And why limit it to that hour radius of Newburgh,  
23 Indiana?

24 A. Because of the travel -- travel time restrictions,  
25 if we had to pay travel time for their trucks to and

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1 from their location anybody that we were in range or  
2 were giving -- giving, pardon me, giving them the trucks  
3 for an hour on an hourly basis they would not pay the  
4 extra travel time on those trucks.

5 Q. So when you had -- when your drivers had travel  
6 time associated with hauling work, you billed that drive  
7 time, that travel time to the customer?

8 A. That's correct, yes.

9 Q. And typically customers didn't want to pay for too  
10 much travel?

11 A. No, they're trying to be economical also.

12 Q. Generally what types of entities did Falcon perform  
13 work for?

14 A. Other construction companies, on contracts, hauling  
15 materials or if someone wants to haul the material for  
16 them on the site or something like that, is what we  
17 would perform work.

18 Q. And so that could include other tri-axle trucking  
19 firms?

20 A. Yes.

21 Q. But --

22 A. We did perform work for other tri-axle trucking  
23 firms when they called us and they needed some  
24 supplemental help.

25 Q. But otherwise it would be for construction

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1 companies like Ragle?

2 A. Yes.

3 Q. And did Falcon regularly haul for asphalt  
4 companies?

5 A. Very seldom.

6 Q. Why -- why is that?

7 A. Normally we were not -- we would not set up. Our  
8 beds were -- what had to be redo -- we had to redo our  
9 beds. A lot of times they'd have hauled in them, they'd  
10 have dirt in them, they had to be cleaned out so we had  
11 to have clean, completely clean beds to be able to haul  
12 it. And we were just basically very seldom did we ever  
13 haul for asphalt companies.

14 Q. And was Falcon's hauling, delivery work depended  
15 upon what needs its customers had?

16 A. Yes.

17 Q. So Falcon's customers didn't have hauling needs on  
18 the job, there'd be no need for them to use Falcon?

19 A. That's correct, yes.

20 Q. I think we heard a little bit of testimony about  
21 this already today, but did the weather and season  
22 impact Falcon's hauling work?

23 A. Yes. Normally we only get to haul during good  
24 weather conditions. And because most construction sites  
25 and that things were shut down during bad weather or

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1 during the winter.

2 Q. How did Falcon get work from customers then?

3 A. They would call us up and ask us to provide -- if  
4 we could -- if we could provide one or two trucks or  
5 whatever we could do to bring them to the -- and we  
6 would provide them. If we told them we could and if we  
7 couldn't we didn't, so.

8 Q. So they just asked for a certain amount of trucks  
9 on a --

10 A. On an hourly basis? On an hourly basis, so.

11 Q. And how far in advance would they request that --  
12 that work?

13 A. It could be the day before, it could be two or  
14 three days before.

15 Q. Generally not very far in advance?

16 A. Not very far in advance. That's right.

17 Q. How did -- you mentioned there's a little bit, but  
18 I'd like to make sure it's clear. How did Falcon bill  
19 its customers for the hauling work they performed?

20 A. It's -- it's billed on an hourly basis.

21 Q. Did -- did it ever bill on flat rates?

22 A. You mean per job?

23 Q. Yes.

24 A. No. As far as I know it was always on an hourly  
25 basis.

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1 Q. Or on a contract basis?

2 A. Yeah, on a contract hourly basis.

3 Q. When -- when a -- when a customer requested that  
4 Falcon, you know, give it some trucks or at a certain  
5 time on a job, what did Falcon do to fill that request?

6 A. Basically their drivers would be told where to go  
7 to -- in order to show up and what to do that day.

8 Q. And there would be hourly cost associated with  
9 that, it sounds like?

10 A. Yes. Yes.

11 Q. How did Falcon determine that hourly costs that it  
12 would charge customers for the work it performed?

13 A. Normally from the time they left the shop until the  
14 time they got on the job site and then back, they would  
15 charge them on an hourly basis.

16 Q. And then -- then what were the elements of that  
17 hourly charge that Falcon would set?

18 A. Clarify that for me?

19 Q. Yeah. So what were the different -- I guess I  
20 should ask you different. How did Falcon set the hourly  
21 cost that it would pass along to its customers?

22 A. It would -- it was basically on the premises of how  
23 much our labor was, how much our equipment was, how much  
24 fuel was and then a little bit in there for profit.

25 Q. So we talked a little bit today about the

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1 Settlement Agreement of Falcon into -- Falcon entered  
2 into with the NLRB and the Union in 2016, right?

3 A. Uh-huh.

4 Q. And after entering into that agreement, Sam, did  
5 Falcon resume its operations?

6 A. Yes.

7 Q. And did it reinstate an employee?

8 A. Yes.

9 Q. And do you recall his name?

10 A. I do not.

11 Q. Is it Dan Maybrey; does that sound correct?

12 A. Yeah, it was Dan. Dan Maybrey, or berry, yes.

13 Q. And did the other former Falcon employees desire  
14 reinstatement?

15 A. They did not.

16 Q. And when Falcon resumed operations in 2016, Sam,  
17 did it operate as it had previously?

18 A. Yes.

19 Q. So how did they get worked when it resumed  
20 operations?

21 A. People would call us and tell us that they had  
22 hauling for us to do and we would provide what trucks we  
23 had and what people we had available to do that, to do  
24 the work for them.

25 Q. In 2016, did Falcon have difficulty obtaining work?

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1 A. Yes, we did. Yes, it seemed like the market has --  
2 it was changing at that time and there was not as much  
3 need for Falcon Trucking at that point in time.

4 Q. Why was that?

5 A. Well, we believe that the DBE and minority  
6 participation, the requirements of some of these jobs  
7 were what was pushing the gamete was pushing us out of  
8 work and giving them more work to do.

9 Q. At that time in 2016, Sam, did you have any  
10 involvement in Ragle's determination of which trucking  
11 firms to use our its jobs that require tri-axle  
12 trucking?

13 A. I did not.

14 Q. Was that any different in 2014? Did you have any  
15 involvement at that time in Ragle's determinations which  
16 trucking firms to use on its jobs to that required tri-  
17 axle hauling?

18 A. I did not.

19 Q. I want to talk with you a little bit about the end  
20 of the year in 2016.

21 So after 2016 did Falcon continue to perform  
22 hauling work?

23 A. After 2016 they did not perform any hauling work,  
24 no.

25 Q. Why is that?

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1 A. Well, Dan -- Dan Maybrey ended up having a health  
2 problem in November I believe and he had to go and have  
3 major surgery done. And so he was unable to work  
4 anymore and I, at that point in time so we were down to  
5 the one driver and we decided to -- I decided at that  
6 point in time it was time to shut the business down and  
7 get rid of the business. Because of my health  
8 conditions and because the market was just not working  
9 out for us at that point in time.

10 Q. So when you talk about the market, Sam. At that  
11 point did you believe that Falcon was able to compete  
12 with the DBE, and MBE and WBE trucking companies?

13 A. It seemed like we were not able to compete at that  
14 level, no. Because of the problems.

15 Q. How come? Why -- why wasn't Falcon able to  
16 compete?

17 A. Because of the -- we weren't DBE, we weren't women  
18 or -- and we weren't disadvantaged which most of the --  
19 and that's -- that's where we were.

20 Q. So at the end of 2016, I think you mentioned this,  
21 but did you have a desire to continue to run Falcon  
22 Trucking?

23 A. I did not.

24 Q. How come?

25 A. Because I was basically -- my health was gradually

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1 going downhill. I wanted to enjoy life a little bit and  
2 I was going to retire. That's it.

3 Q. And did -- did Falcon financial performance play  
4 any role in that decision?

5 A. It always played some -- some roll in the decision  
6 but basically I wanted to retire.

7 Q. Okay. And at the time that you wanted to retire  
8 and stop running Falcon, did any of Falcon's other  
9 owners desire to run that business at that time?

10 A. They did not, no.

11 Q. And why not?

12 A. They had other obligations, doing other work.

13 Q. And who was that that you're talking about?

14 A. I asked -- I asked Jason if he wanted to continue  
15 and he was too involved with Ragle and basically that  
16 was -- that was his at the time

17 Q. Okay. And you mentioned previously you had then  
18 transitioning Jason -- to Jason, the management of  
19 Ragle's business around that time as well?

20 A. Yeah, in the Midwest. Yes.

21 Q. You were negotiating with the Teamsters prior to  
22 that time, correct?

23 A. Yes. Yes.

24 Q. Sam, if you had signed a contract with the  
25 Teamsters, would that have changed anything about the

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1 decision you made at the end of 2016?

2 A. It would not, no.

3 Q. Why not?

4 A. Because at that point in time I wanted to basically  
5 retire and get out of the business. Shut the business  
6 down.

7 Q. Falcon continued to own some assets, some trucks  
8 after that point though didn't it?

9 A. Yes.

10 Q. And did it sell any of those trucks to Ragle?

11 A. No.

12 Q. Did any of Falcon trucks leave the lot since 2016  
13 when you stopped performing hauling work?

14 A. No.

15 Q. Until you sold them, I presume?

16 A. Right. Correct.

17 Q. And those trucks have all been sold at this point  
18 in time?

19 A. That's correct.

20 Q. Okay.

21 MR. GARRISON: I have nothing further.

22 JUDGE KEY: Mr. Johnson?

23 MR. JOHNSON: Can I have just about five minutes,  
24 Your Honor?

25 JUDGE KEY: Of course. We'll be in recess until

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1 1:25.

2 *[Off the record]*

3 JUDGE CHRISTAL J. KEY: Go ahead.

4 DEREK JOHNSON: All right. Thank you, Your Honor.

5 JUDGE KEY: We're back on the record, correct?

6 Go ahead.

7 CROSS-EXAMINATION

8 DEREK JOHNSON: Good afternoon, Mr. Ragle. I know  
9 you've signed in before, so you've seen.

10 I'm Derek Johnson with the General Counsel's  
11 Office. I have just a few follow up questions on the  
12 testimony you just provided. So as we go through them,  
13 if you don't understand my question or need  
14 clarification, please just feel free to ask. I'll be  
15 happy to give it. Okay?

16 THE WITNESS: Yeah.

17 Q. MR. JOHNSON: First off, I wanted to ask. You  
18 talked about Falcon typically did work within about one  
19 hour of Newburgh; do you recall that?

20 A. THE WITNESS: Yes.

21 Q. There wasn't a one-hour limitation. So Falcon  
22 would on occasion go even up to an hour and a half away;  
23 is that correct?

24 A. I would say it might be some circumstance because I  
25 know that every once in a while, we furnish a truck.

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1 The pickup truck for them to drive to and from the site  
2 so they could get there. So we'd leave a truck sit over  
3 for a period of time, but 99 percent of the time, we  
4 would always do it within an hour. An hour of the  
5 office.

6 Q. Okay, and when you say furnish a pickup truck, that  
7 would be Ragle furnishing a pickup truck for Falcon  
8 employees?

9 A. Ragle or personal truck or whatever.

10 Somebody that could travel to and from the office  
11 to get to their trucks.

12 Q. Okay. Just to make sure, but that would be for  
13 Falcon employees to get to their trucks, correct?

14 A. Yes. Yes because -- yes.

15 Q. Okay, and then, I know you talked about mostly in  
16 general kind of about the customers you had and that  
17 sort of thing at Falcon. Fair to say, especially, you  
18 know, 2013, 2014, the majority of your customers, and I  
19 say customers was Ragle, correct, for Falcon?

20 A. I really cannot say that. Okay? I really don't  
21 know.

22 Q. Okay. I was going to say, do you not know or you  
23 wouldn't agree it was the majority?

24 A. No, I really don't know. I haven't really been in  
25 analysis to see how much we actually did on our billings

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1 and those processes.

2 Q. Okay. Well, Falcon did work for Ragle, correct?

3 A. Yes.

4 Q. Okay, and again, 2013, 2014, for starters. So  
5 during that time period, Falcon did work for Ragle,  
6 correct?

7 A. Yes.

8 Q. What other companies, if you recall, that Falcon  
9 would've regularly done work for?

10 A. We did a lot of -- we did some work for other  
11 trucking companies. Basically, that was most of the  
12 calls when we got trucks -- when we needed, we put  
13 trucks up for other trucking companies. I'd have to go  
14 back to the records to look to see why other people...

15 Q. Okay, and so, those billings would be reflected in  
16 the invoice records that your counsel provided us,  
17 correct?

18 A. Yes, I believe so.

19 Q. Okay. Now, you spoke about after the settlement  
20 agreement was entered into that Dan Mabrey came back and  
21 worked for you, correct?

22 A. Yes.

23 Q. Okay. Going back to that same timeframe, the 2013  
24 especially into 2014. Fair to say you had a lot more  
25 than just one employee working for Falcon, correct?

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1 A. Yes.

2 Q. Typically, four or five employees would be working  
3 basically a full schedule at Falcon?

4 A. Typically, between say April and November,  
5 normally, three to five employees probably.

6 Q. Okay, and they would generally be working -- and I  
7 understand it varies with weather and such, but  
8 generally, about 40 hours per week? Maybe some  
9 overtime?

10 A. Yeah. Possible. Yes.

11 JUDGE KEY: Maybe you said, Mr. Johnson. What  
12 period of time are you talking about right now?

13 MR. JOHNSON: For the three to five employees, we  
14 were talking about 2013 into 2014.

15 JUDGE KEY: Is that what you understood, Mr. Ragle?

16 THE WITNESS: Yes, I think so.

17 JUDGE KEY: Okay. So when you said three to five  
18 employees, you were referencing the period of 2013 and  
19 2014?

20 THE WITNESS: Yes.

21 JUDGE KEY: Okay. I just -- I think I missed a  
22 question, but I wanted to make sure I understood. Thank  
23 you.

24 Q. MR. JOHNSON: And I appreciate the clarification,  
25 Your Honor.

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1           And then, I know you talked about it became harder  
2   to get work, you know, because of the DBE and NBE and  
3   WBE requirements. I just want to confirm that was not  
4   something new that suddenly came up in 2015-2016,  
5   correct?

6           In other words, DBE requirements on job sites  
7   existed in 2013 and 2014, right?

8   A. I'll answer this question this way. During --  
9   normally, during the period of before 2013, '14 or  
10  something. '15. In that range. Normally, your DBE  
11  requirements on most jobs would be probably five  
12  percent. Okay?

13          Half of that in 2013, I believe. '13, '14, '15.  
14  In that range. It became normally about 12 percent  
15  requirements on jobs. So therefore, our percentage in  
16  the market, in order to -- we were just not able to  
17  compete with the DBE firms because the contractors  
18  needed the DBE forms to do their work and we could not  
19  compete with that situation. We were not a DBE firm.

20  Q. Okay. So you're saying that the percentage  
21  increased, correct?

22  A. Percentage increase, which might make a difference  
23  of, you know, a large amount on the job and therefore,  
24  we weren't in that area where we could be given any  
25  work. So we didn't get any work as a result of it.

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1 Q. And then, let me also just confirm -- just to make  
2 sure I understand, the DBE and I'm just going to use DBE  
3 for short, meaning DBE, MBE, WBE. I mean, kind of the  
4 broad category of Disadvantaged Business Enterprises.

5 The DBE requirements, as I understand it and I want  
6 to make sure I'm correct, are for a certain percentage.  
7 Like you said, five percent, ten percent or whatever of  
8 the total contract and the contractor can fulfill that  
9 in any number of ways as it contracts work; is that  
10 correct?

11 A. Yes.

12 Q. So in other words, a ten percent DBE requirement  
13 doesn't mean that I have to use all, you know, DBE  
14 haulers to do my dump truck hauling, correct?

15 A. That's correct. I would...

16 Q. And in fact, Ragle, in meetings its DBE  
17 requirements, would often contract with other DB  
18 Enterprises, besides the dump trucking companies, right?

19 So you would -- like erosion companies. You would  
20 use a DBE or sign companies, you'd use a DBE, correct?

21 A. Yeah. I can't specifically answer that because I  
22 was not involved in giving out which contract did what  
23 at that point in time. So I can't really specifically  
24 answer that question.

25 Q. Okay. Okay, but you do agree with the general idea

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1 that it doesn't have to be just dump truck driving that  
2 gets DBE, correct?

3 A. Yeah. Unless it's at our jobs, it would be used on  
4 a sewer job or where we were -- the trucker owns their  
5 job and the only way that the general contractor had any  
6 availability to get any DBE participation would be from  
7 the trucking.

8 Therefore, we'd lose all of our trucking on that  
9 job because of the DBE requirements on the job because  
10 that was the only way we could get the DBE requirements.

11 Q. So let me ask. I think you -- you kind of just  
12 said it, too, that in terms with Ragle, you weren't  
13 involved in the -- I guess you're saying you're not  
14 really involved in the day-to-day, in terms of which  
15 companies get contracted with, correct?

16 A. That's correct.

17 Q. Okay, but I want to make sure I understand. You  
18 had an ownership. What was your -- let me ask this.  
19 What was your ownership interest in Ragle? What  
20 percentage of an ownership are you?

21 A. I'm about 15 percent.

22 Q. And how about in Falcon? What's your ownership  
23 percentage?

24 A. 35 percent.

25 Q. And is that -- has that remained the same over time

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1 or has it changed more recently?

2 A. It was changed. That's what it is right now.

3 Q. Okay.

4 A. That's before Falcon went out of business.

5 Q. Okay. So let's talk about then before Falcon went  
6 out of business, what was -- it was 35 percent the  
7 entire time that Falcon operated?

8 A. Yes.

9 Q. Okay. Okay, and again, let's just stick to that  
10 kind of same timeframe.

11 When Falcon was operating, was -- you also had a 15  
12 percent ownership at Ragle or did that change?

13 A. That changed.

14 Q. Okay. So what was your ownership interest in Ragle  
15 in 2016?

16 A. I'd have to go back to remember. It may be the  
17 same as it is right now. It might be -- I might've  
18 owned more. I've given some stock away in the process  
19 in the last two or three years, but I'd have to go back  
20 and check exactly to see what that was. A little bit  
21 more. At some point in time, I owned more at Ragle than  
22 I do right now.

23 Q. Okay. Okay. Appreciate that. And who were the  
24 other owners of Falcon?

25 A. We answered that already, but it was Jason Ragle,

1 Troy Ragle, and Keith Sanderson...

2 Q. I'm sorry. Keith Sanderson?

3 A. Keith Sanderson, Jason Ragle, and Troy Ragle.

4 Q. Okay, and what were their percentages?

5 A. Ten, ten, and ten.

6 Q. Okay, and then who had the remaining...

7 A. Pamela.

8 Q. I'm sorry. That's your wife?

9 A. Yes.

10 Q. Okay. Okay, and I just want to make sure I  
11 understand. I mean, your ownership in Falcon wasn't a  
12 secret, right?

13 So people working at Ragle knew that you owned both  
14 companies, correct?

15 A. Yes.

16 Q. Okay, and who ran the day-to-day operations at  
17 Ragle? And I just we need to -- if we do a timeframe,  
18 let's talk about in 2016. Who ran the day-to-day  
19 operations in 2016 at Ragle?

20 A. Scott York.

21 Q. Okay, and how about at Falcon in 2016? Who ran the  
22 day-to-day operations?

23 A. That, I can't really tell you. I don't know.

24 Q. Okay. So okay. Would it have been -- well, I  
25 guess would it have been one the three that you

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1 mentioned? The Keith, Troy, or Jason?

2 A. If you mentioned 2016, the only thing they did was  
3 take and dispatch. If somebody needed some work in  
4 Falcon, we would dispatch a truck out to work and it  
5 would be called in on the Falcon number and we would put  
6 dispatch and truck to work. Okay?

7 So the operations really was very minimal. So  
8 normally, one of the girls may take care of it or  
9 something like that. Okay?

10 Q. I guess to clarify when you say we would do this,  
11 we would dispatch, we would take the call, you mean  
12 Ragle, correct?

13 A. And Falcon. Falcon would take the call and she  
14 would answer on the Falcon line and take the call and  
15 dispatch the truck if we had trucks available.

16 Q. Who is -- I guess I'm confused who the she was  
17 because I was -- you testified earlier...

18 A. As we would get a call, it might be Joyce. It  
19 might be one of our other truck drivers that would take  
20 the call. At that point in time, you said 2016? I  
21 think Mabrey was the only person still working for us in  
22 2016. So I imagine what happened was they'd call into  
23 Joyce or something like that and she would take the call  
24 and tell him there was work available for you tomorrow.

25 Q. And I guess just so that I understand, though,

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1 because I understood you said there were no other  
2 employees other than truck drivers at Falcon. So Joyce  
3 would be a Ragle employee, correct?

4 A. Yes, she was.

5 Q. Okay. So going back to what I think I was saying.  
6 So when you say we would take a call, you mean Ragle  
7 would get a call for a truck and then Ragle would call  
8 up Mabrey, for example, and have him dispatched under a  
9 Falcon number, correct?

10 A. Ragle -- yes. Well, Ragle would not take the call.  
11 Falcon would take the call, but Joyce would answer it as  
12 Falcon Trucking and therefore, that's who took the call.  
13 She would do that and then, they'd dispatch it.

14 Q. Okay. Now, did Joyce get a Falcon paycheck for  
15 that part of her job?

16 A. No.

17 Q. Okay. She was just getting always paid by Ragle,  
18 correct?

19 A. Yes.

20 Q. Okay. Okay, and then, I guess I wasn't entirely  
21 clear. When was it you made the decision to close  
22 Falcon?

23 A. You say specifically at any one time, I cannot tell  
24 you. I do know it was from 2012 on when I had my triple  
25 bypass. I decided at that point in time things had to

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1 start slowing down for me and I gradually started to get  
2 out of the business in Falcon and also in Ragle.

3 Q. Now, you didn't wind down Ragle's business, did  
4 you, even though you were getting out of it?

5 A. Getting out of it, but no, I didn't. I wound down  
6 Falcon's because nobody else wanted to take over Falcon  
7 Trucking. So I said fine, we'll stop business. Stop  
8 operations.

9 Q. And I think you saw the testimony earlier and the  
10 document came in. It's Charging Party's Exhibit 3. At  
11 the end of 2016, after you bargained with the Union  
12 awhile, you sent a letter to the Union saying that you  
13 were withdrawing recognition, correct?

14 A. Yes.

15 Q. So you didn't announce to them that they were  
16 closing the business. You just announced that you were  
17 withdrawing recognition at the end of 2016?

18 A. I guess that's what happened. Yes.

19 MR. JOHNSON: That's all the questions I have, Your  
20 Honor.

21 THE WITNESS: Okay.

22 JUDGE KEY: Mr. Morris, do you have any questions?

23 CROSS-EXAMINATION

24 Q. MR. MORRIS: Thank you, Your Honor. Just a few.

25 Mr. Ragle, I'm Sam Morris. I represent the

1 Charging Party 215 in this matter.

2 If we can go back to 2014, as far as the ownership  
3 in Falcon at that time, there was you and did your wife  
4 own any of Falcon at that time?

5 A. THE WITNESS: I think she owned -- I believe she  
6 owned the same ownership that I did. 35 percent.

7 Q. So it was 35, 35, and then, who was the other 30?

8 A. Ten, ten, and ten. By Jason Ragle, Troy Ragle, and  
9 Keith Sanderson.

10 Q. Got it. Okay, and back in 2014 with Ragle, you  
11 said you owned more than later. Can you quantify that  
12 for us?

13 A. What year, Sam?

14 Q. Of 2014.

15 A. I can't remember. During the period of time --  
16 when I first started this company, I owned 50 percent of  
17 the company. My wife owned the other percent. During  
18 the meantime, we eventually given stock to the boys and  
19 sold other stock to other people. Okay?

20 I'd have to go back specifically and see about what  
21 I owned exactly in 2014. It was a little more than what  
22 it is right now. Okay?

23 Q. Got it. Okay, and at that time back in 2014, how -  
24 - you had for Falcon, how many employees? Six, seven,  
25 eight? Something like that or do you remember?

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- 1 A. I do not know.
- 2 Q. Okay. It was more than one, right?
- 3 A. In 2014?
- 4 Q. Yeah.
- 5 A. Yes.
- 6 Q. Okay. Around a half a dozen; would that be
- 7 correct?
- 8 A. They varied. I'm sure at the time -- it went from
- 9 zero to six probably. I'm not sure.
- 10 Q. All right, and you said mostly drive tools and
- 11 quads at that time. Was there -- you remember that the
- 12 Union certification didn't say anything about how many
- 13 axles the trucks had. It just said truck drivers. Do
- 14 you remember that?
- 15 A. No, I don't.
- 16 Q. Okay. Well. So would you disagree that the Union
- 17 was certified in was all regular full-time truck drivers
- 18 employed by the Employer at its Newburgh, Indiana
- 19 facility?
- 20 A. ...that question?
- 21 Q. Do you have any reason to disagree with that the
- 22 Union bargaining was all regular full-time truck drivers
- 23 employed by the Employer at its Newburgh, Indiana
- 24 facility?
- 25 A. My understanding was that it was Falcon Trucking

1 and it was only with tri-axles.

2 Q. Okay. Who told you it was just with tri-axles?

3 A. That was my understanding. It was all that we had.

4 That's all -- I was only negotiating with Falcon

5 Trucking and that's all I had was tri-axle trucks.

6 That's what we were negotiating with the Union with.

7 Q. Okay. Thank you. But as far as what the legal

8 documents said that the Union was certified to

9 represent, you don't disagree that it just said truck

10 drivers? It didn't say tri-axle truck drivers?

11 A. I do not know.

12 Q. You don't know. Did you ever bother to check into

13 that anytime between then and today, that your

14 certification didn't say tri-axles?

15 A. My understanding was it was tri-axles only.

16 Q. Okay. All right. So now, as of 2016 when the

17 settlement was signed, how many drivers did you have

18 actually active with work and pretty much down to

19 nothing, isn't it?

20 A. From what I understand, it went down. The rest of

21 the drivers, we asked to come back and keep working and

22 they refused to come back and I think they were taking

23 other jobs and we were down to one driver, Mabrey, by

24 the end of the year. We kept doing business until the

25 end of the year and at that point in time, he had health

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1 issues and I believe at that point in time, that's when  
2 we wrote the letter saying that we had to null or  
3 discontinue the negotiations.

4 Q. Okay. Let me try this again, Mr. Ragle. You  
5 signed a settlement in April of 2016; do you remember  
6 that?

7 A. Who signed the settlement?

8 Q. You and your lawyers did.

9 A. My lawyer did. Yes.

10 Q. Okay, and prior to that is when I'm asking you how  
11 many people you had working before. You just told us  
12 what happened after you signed the settlement, but how  
13 about before that?

14 A. What was the date of the settlement, Sam?

15 Q. April of 2016.

16 A. Okay. We -- I cannot tell you how many we had  
17 employed. We had -- you know, I do not know.

18 Q. The settlement said you had to reconstitute the  
19 company as it existed in 2014. So did you have the same  
20 number of drivers in 2016 as you did in 2014?

21 A. We tried to get as many back and do as much  
22 business as we could, but that was all that was  
23 available in the marketplace and that's the only work we  
24 could get and we could keep Mabrey working for us. We  
25 couldn't get your other drivers back. The other drivers

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1 back because they took other jobs. We kept Mabrey busy  
2 and then, at the end of the year, I finally decided  
3 things are not going to work out and I shut the business  
4 down.

5 Q. Thanks again for that, Mr. Ragle, but that wasn't  
6 the question.

7 The question was before you signed the settlement  
8 and you're saying you don't have any recollection of  
9 having gone from six or seven to one or two at that time  
10 and the reconstitution, as required by the Labor Board  
11 settlement was the result of you essentially starving  
12 the drivers out that had voted to get the union in?

13 MR. GARRISON: Objection to the form of the  
14 question. It mischaracterizes the nature and language  
15 of the settlement agreement.

16 JUDGE KEY: Why don't you ask him -- is what you're  
17 trying to ask how many employees were employed between  
18 January 1, 2016 and April 2016, Mr. Morris? Is that  
19 what you're trying to ask him?

20 Q. MR. MORRIS: Yes, Your Honor. That's a great  
21 question.

22 Do you understand the Judge's question, Mr. Ragle?

23 A. THE WITNESS: Yes, and I'd have to go back and look  
24 at the documents to see how many was employed. On  
25 January 1<sup>st</sup>, I'm sure there was none employed and during

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1 the construction season as it picked up, I'm sure we  
2 went up to three to five or six employees and at that  
3 point in time, that's what we did.

4 Q. That's okay, Mr. Ragle. We got you.

5 So when -- and I hate to have to ask this again,  
6 but your bypass was when?

7 A. 2012. December.

8 Q. Okay. Now, up to 2016 and you used either -- if  
9 you recall for either Ragle or Falcon, have you used  
10 Liggon's or Starnes to do any of your work?

11 A. Are you asking this from Falcon? Did they do any  
12 of Falcon's work? No. As far as I know, I didn't.

13 Q. Okay. Let's try the question again.

14 For either Falcon or Ragle, did you use, prior to  
15 2016, Liggon's or Starnes?

16 A. I was not involved in operations so I can't tell  
17 you.

18 Q. Okay. You said you did have a -- what was the  
19 percentage? I went up to 12 from six that was required  
20 or was it five?

21 A. On some jobs, that's correct.

22 Q. Okay. So you don't know who you used to satisfy  
23 your five percent that it was before 2016?

24 A. I do not know.

25 Q. Okay, but you're sure that the requirement to date

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1 is 12?

2 A. What was the question?

3 Q. You stated in response to your lawyer's questions  
4 that the requirement for minority contractors was 12  
5 percent now; is that right?

6 A. It's variable depending on what contracts you get.  
7 One might be five percent and one might be 20 percent.  
8 Actually, some of the contracts there are 20 percent.

9 Q. Do you want to retract what you said earlier and  
10 say now it's variable? It isn't 12?

11 A. It's variable between five and 20. Different  
12 contract.

13 Q. Between five and 12? Okay.

14 A. Five and 20. I can't really tell you. It's so  
15 variable each time. Each contract you got is specific.  
16 You cannot determine what it is because they've got to  
17 come out the contractor is specific to that contract.

18 Q. Okay. So if the percentage is 12, you said it was  
19 now, that would be a little more than one out of ten  
20 drivers would have to be minority; is that correct or  
21 was that...

22 A. That's not the way it works.

23 Q. Okay.

24 A. That's not the way it works. You have a million-  
25 dollar contract and the DBE requirements on that

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1 contract will be \$100,000 if it's ten percent. You got  
2 to get \$100,000 worth of DBE participation, which means  
3 you have to either go through trucking, through whatever  
4 kind of avenues you have, depending on what type of job  
5 it is.

6 Q. Okay. Well, let's talk about those other avenues.  
7 What are the other avenues besides trucking?

8 A. If you got a bridge job, you can get on rebar  
9 sometimes. Sometimes. You look at anything  
10 specifically on what the pricing is to do the best  
11 advantage of what you -- you make a determination about  
12 where you get the DBE requirements in order to be --  
13 because all of these contracts are bid contracts. We  
14 work for public agencies and we do the best we can with  
15 the public agencies. We have to get the cheapest, most  
16 responsible price we can for those agencies.

17 Q. Got you. So the DBE fulfillment can be anywhere in  
18 the contract; is that what you're telling us?

19 A. Yes.

20 Q. Okay, and it's -- even if it's 12 percent now, it's  
21 88 percent of the cost of the contract you're telling us  
22 that was not subject to DBE requirements, right?

23 A. I guess. Yes.

24 Q. Exactly when was it that you decided you wanted to  
25 retire?

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- 1 A. I ain't retired, sir.
- 2 Q. Semi-retired. Excuse me.
- 3 A. Semi-retired, yes. Because I'm in here today.
- 4 Q. We recognize it's not a fun thing. So again, when
- 5 did you decide to semi-retire?
- 6 A. I've been in the process for numerous years.
- 7 Q. Numerous back to when? Until after you had your
- 8 health problem?
- 9 A. Since 2016, I've been contemplating whether to
- 10 retire or not, yes, and depending on what I can do to
- 11 get -- yes, I'm retired. Yes. I come in...
- 12 Q. Since 2016?
- 13 A. Yes.
- 14 Q. Okay. Are you any more semi-retired now than you
- 15 were in 2016?
- 16 A. I'd say.
- 17 Q. Very good. Now, who was it that said you took the
- 18 call offs for work for Falcon say in 2016 when you
- 19 answered the phone?
- 20 A. Joyce Moore would be one of them.
- 21 Q. Anyone else?
- 22 A. I do not know.
- 23 Q. And we said she had -- she got a Ragle paycheck?
- 24 A. Yes.
- 25 Q. All right, and she took the Ragle calls for work

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Phone: (913) 422-5198

1 also, I presume; is that correct?

2 A. Yes. Sometimes. Yeah.

3 Q. Okay. What about the RiverTown calls for work?

4 A. I do not know.

5 Q. Was there a separate receptionist for RiverTown?

6 MR. GARRISON: Objection to any question you have  
7 about RiverTown, which isn't a party to this proceeding.

8 JUDGE KEY: Sustained.

9 Q. MR. MORRIS: You know if there are separate phone  
10 numbers for Falcon and Ragle?

11 A. THE WITNESS: I believe there was. Yes.

12 Q. Okay, and do they both ring at the desk of the  
13 person you just spoke of?

14 A. Excuse me? I didn't hear you. What?

15 Q. Where did those numbers ring to the facility that  
16 houses both Falcon and Ragle and RiverTown?

17 MR. GARRISON: Objection again to the introduction  
18 of RiverTown in the question.

19 JUDGE KEY: Sustained.

20 Q. MR. MORRIS: Okay. So the question is did the  
21 phone numbers for Falcon and Ragle ring at the same  
22 place or do you know?

23 A. They are different numbers.

24 Q. All right. I understand that.

25 Who answered? Was it a different person or the

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1 same person?

2 A. It was depending.

3 Q. Okay, and can you give us any more insight on  
4 depending on what?

5 A. Well, Joyce would answer the phone if she was there  
6 to take the call. Yeah, and otherwise, maybe one of our  
7 -- that's it. So.

8 Q. Give me just a minute here. Just a couple more  
9 questions.

10 *[Long pause]*

11 I'm going to ask you some questions about what kind  
12 of trucks that Ragle owns. Can you tell us what a boom  
13 truck is?

14 A. It's -- the truck has a boom on it. It's for  
15 lifting equipment or something like that. So.

16 Q. A bucket truck?

17 A. To lift a person? Yes.

18 Q. A Freightliner MT55?

19 A. [No audible response]

20 Q. I'm sorry?

21 A. I believe that's a single axle.

22 Q. A semi-tractor or is it a single axle truck?

23 A. Single axle.

24 Q. What is an International 4300 Altec D45 Line Truck?

25 A. I can't tell you.

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1 Q. It's labeled as a heavy truck; do you know what  
2 means? What's the distinction between a heavy and a  
3 medium truck?

4 A. Heavy is probably just -- it's a heavier truck. I  
5 can't tell you the designation exactly on them.

6 Q. Okay. An International semi would be on the order  
7 of a semi-trailer tractor; is that correct?

8 A. Yes. Um-hum.

9 Q. As would a Mack semi?

10 A. Yes.

11 Q. And a Peterbilt semi?

12 A. Yes.

13 Q. And a Kenworth semi?

14 A. Yes.

15 Q. What is a water truck?

16 A. It hauls water.

17 Q. Okay, and does it have a big tank of water on the  
18 back or is it just a flatbed or what is it?

19 A. Big tank of water.

20 Q. And how many axles does it have; do you know?

21 A. Probably one or two.

22 Q. Okay, and do you know which the Ford water truck  
23 has; whether it's one or two?

24 A. I can't tell you.

25 Q. Okay, and the Freightliner, you don't know which

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1 that is? Freightliner water truck.

2 A. I can't tell you.

3 Q. Do you know whether Ragle is party to the heavy  
4 highway agreement with the Operating Engineers Union?

5 A. Yes. Yes, they are.

6 Q. And is Ragle party to the heavy highway agreement  
7 with the Laborers International Union?

8 A. Yes.

9 MR. MORRIS: That's all the questions I have, Your  
10 Honor.

11 JUDGE KEY: Anything further, Mr. Garrison?

12 REDIRECT EXAMINATION

13 Q. MR. GARRISON: Yes, thank you, Judge Key.

14 Sam, a few follow up questions for you. Mr.  
15 Lawrence asked you some questions about DBE percentages.  
16 I just want to clarify your testimony on that.

17 Is your testimony that to your knowledge, every  
18 contract after 2016 was a 12 percent DBE percentage  
19 requirement?

20 A. No.

21 MR. MORRIS: I'm going to object, Your Honor. I  
22 hate to be technical, but I mean, we're still on direct  
23 exam and he's just handing him, lobbing him a question  
24 and ask him to affirm his own statement. So for...

25 JUDGE KEY: We're on redirect and I don't think --

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1 I think he's clarifying a question. I don't think he's  
2 feeding him an answer -- and quite frankly, the call for  
3 him to deny, I don't think he was going to -- anyway.

4 Go ahead, Mr. Garrison. Overruled.

5 Q. MR. GARRISON: Thank you, Judge Key.

6 What was your -- at that time in 2016, what was  
7 your sort of understanding about the overall trends in  
8 DBE requirements in Polk Center contract, Sam?

9 A. THE WITNESS: The trend seems to be that the  
10 federal government is requiring more and more DBE  
11 participation with all of our contracts.

12 Q. You also testified a bit about the way Falcon got  
13 day-to-day business in 2016. Answering the phones at  
14 the office. You said Joyce answered the phone if she  
15 was there and that would dispatch a truck.

16 A. Um-hum.

17 Q. How, if at all, was that different, that practice  
18 of getting business, how was that different in 2014?

19 A. Basically the same.

20 Q. So when you say basically the same, what do you  
21 mean? How would it work...

22 A. Somebody would call in and ask for trucks and we  
23 would dispatch them.

24 Q. Was there a person who was charge of the day-to-day  
25 business in 2014?

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1 A. 2014. It probably was. I just was not privy to  
2 it. I was not there on a day-to-day basis.

3 Q. Okay. So that person who was in charge of the day-  
4 to-day business would be the person who got all the  
5 calls for Falcon?

6 A. Yes.

7 Q. Okay.

8 And as far as the way that person would dispatch  
9 business, did that change at all from 2014 to 2016?

10 A. No.

11 Q. I guess the frequency of the business could have  
12 changed, but.

13 A. The frequency, but the same way. They dispatched  
14 the same.

15 Q. The practice of dispatching?

16 A. The practice of dispatching, yes.

17 Q. And just to make sure the record is clear, how did  
18 that dispatching process work?

19 A. Just I think they would call in and once they  
20 called in and we had availability of trucks, we would  
21 dispatch a truck that would be able to do that work.

22 Q. By calling one of the drivers that Falcon had?

23 A. Calling one of the drivers at Falcon, yes.

24 Q. If they were available or if you had trucks  
25 available.

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1 A. Yes. Yes.

2 Q. Was there any change in that practice from 2014 to  
3 2016?

4 A. None at all, no.

5 MR. GARRISON: Nothing further, Judge Key.

6 JUDGE KEY: Anything further, Mr. Johnson? You're  
7 on mute.

8 RECROSS EXAMINATION

9 Q. MR. JOHNSON: Thank you, Your Honor. I do have  
10 just a couple follow ups, which are much easier if I'm  
11 not muted.

12 So I guess I'm just curious, Mr. Ragle. I mean,  
13 the records show what they're going to show, but it  
14 looked like a significant amount of work that Falcon did  
15 came from Ragle. Are you saying that somebody from  
16 Ragle would get on the phone and call up the Falcon  
17 phone number and it would ring in the next office and  
18 somebody would answer for the dispatch? How did that  
19 work when Ragle was giving business to Falcon?

20 A. If -- normally, it would from a job site. If a job  
21 site needed -- if we had the contact number with all of  
22 our trucking businesses with Ragle and they would call  
23 up and say we need three trucks today. So if Falcon  
24 could furnish them three trucks, they'd furnish them if  
25 they could. If they'd furnish them one, they'd have to

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1 call in and get another company to come in and do the  
2 other trucking. So then, we'd call around until they  
3 got the trucks necessary to do the work.

4 Q. So who -- I guess who is -- it's somebody on the  
5 job site who would call up Falcon?

6 A. The outside super would call and ask for truckers  
7 because they would know what's going on in their  
8 operation during the day. So they'd call and ask.

9 Q. And the jobsite superintendent would be a Ragle  
10 employee, correct?

11 A. Yes. Yes.

12 Q. Okay. So the job site superintendent would call in  
13 and perhaps get Joyce and say hey, I need three trucks?

14 A. If that would be the contact number here, yes. Or  
15 he might have -- if the trucks had worked the day before  
16 for him, he might call that truck driver and say hey, be  
17 back here in the morning.

18 Q. Okay. So -- okay. So he could just call a truck  
19 driver up directly and have them call back. So assuming  
20 he calls up -- I guess the job site superintendent,  
21 would he be calling the Falcon phone number or would he  
22 be calling a Ragel phone number to say hey, I need  
23 trucks sent out?

24 A. He would -- he could call on the Falcon number or  
25 call the Teamsters -- no. The truck driver's number.

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1 Q. Okay. So...

2 A. If they were working on the jobsite, there was  
3 times he would know those truck drivers and he would  
4 just have their phone numbers and call them and say be  
5 back here in the morning.

6 Q. Now, would that same individual be the one to, for  
7 example, call up a third company and say hey, I need  
8 truck drivers? Is that who's making that decision?

9 A. Yes. Yes.

10 Q. Okay. So it's the jobsite superintendent you're  
11 saying has full authority to control who gets contracts  
12 with Ragle, correct?

13 A. He has full authority to get his work done. Okay?  
14 Not those contracts with Ragle. If it's a DBE  
15 requirement, he knows who he's going to have to call to  
16 get. Otherwise, he can go out to numerous trucking  
17 companies. If he doesn't have a DBE requirement on the  
18 job and we haven't specifically written that in as a  
19 requirement of the contract, then he can go and get --  
20 if he's got trucking to do, he can go to any trucking  
21 company in the area.

22 Q. And there's no guidelines from any other managers  
23 about what you should or shouldn't be doing?

24 A. Get your job done in the most economical way you  
25 can.

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1 Q. Okay. And then, I just wanted to clarify a point I  
2 think you previously testified about.

3 After the settlement agreement was done, I think I  
4 said you only were able to get Dan Mabrey back and the  
5 other employees weren't interested in coming back; is  
6 that correct?

7 A. That is correct. We tried numerous times to get  
8 them back and they were not interested in coming back.

9 Q. And I just want to make sure and make sure I  
10 clarify and understand. There was no rule that  
11 prevented you from going and hiring somebody else,  
12 right? You could have gone and hired somebody off the  
13 street or any other truck driver that had their CDL-A,  
14 correct?

15 A. Yes, I believe so. As long, you know -- as long as  
16 they met the requirements. Yes.

17 Q. Right. Okay. That's what I mean. You weren't  
18 limited to just the previous employees. You could've  
19 hired new employees is what I'm saying, correct?

20 A. There was no availability of work at the time  
21 because of all the circumstances.

22 MR. JOHNSON: That's all I had, Your Honor.

23 JUDGE KEY: Mr. Morris?

24 RECROSS EXAMINATION

25 Q. MR. MORRIS: Mr. Ragle, during that time, did you

1 ever call Earl Brown, who you saw on screen earlier, or  
2 anybody at the Union and asking them to provide you any  
3 drivers?

4 A. THE WITNESS: I do not know.

5 Q. Can you specifically remember doing that, Mr.  
6 Ragle?

7 A. I do not know, sir.

8 MR. MORRIS: Okay. Thank you.

9 JUDGE KEY: Anything further -- anything further,  
10 Mr. Garrison?

11 MR. GARRISON: No.

12 EXAMINATION BY COURT

13 Q. JUDGE KEY: What percentage ownership is required  
14 of a company for it to be a woman business enterprise?

15 A. THE WITNESS: 50 percent or more.

16 Q. So if there was this increase in federal contracts  
17 to get these DBE, WBE, MBE, why not just transfer  
18 ownership from yourself to your wife, Pamela, up to 50  
19 percent so you could get the work?

20 A. She's a silent partner. She didn't want to have  
21 anything to do with operations. I even talked to her  
22 about doing the same thing with Ragle numerous years ago  
23 and she did not want to do it. She said I'm a silent  
24 partner and I will not have anything to do with the  
25 business besides being in corners with you. I said

1     okay.

2           JUDGE KEY:   Okay.   Does my question raise any  
3     questions for anybody else?

4           MR. GARRISON:   For me briefly, Judge Key.

5           JUDGE KEY:   Go ahead.

6                           REDIRECT EXAMINATION

7     Q.    MR. GARRISON:   I take it then, Sam, that simply  
8     being a 50 percent owner isn't sufficient to be  
9     qualified as a woman owned business.

10    A.    No.

11    Q.    Is that right?

12    A.    That's correct.

13    Q.    There has to be some active management?

14    A.    Active management has to be performed by the person  
15    doing it to give them a chance to own 51 percent.

16    Q.    Okay.   So that person, whether it would be a  
17    disadvantage qualifying minority owned or woman owned  
18    can't just be an ownership on paper.

19    A.    No.

20           MR. GARRISON:   Nothing further.   Thank you, Judge  
21    Key.

22           JUDGE KEY:   All right.   Anything further, Mr.  
23    Johnson?

24           MR. JOHNSON:   No, Your Honor.

25           JUDGE KEY:   Mr. Morris?

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1 MR. MORRIS: No, thank you, Your Honor.

2 JUDGE KEY: All right. You can call your next  
3 witness, Mr. Garrison.

4 MR. GARRISON: Judge Key, I apologize for this, but  
5 we honestly didn't anticipate going this quickly and our  
6 final witness has actually been out performing some work  
7 in the field today. We anticipate he can be back by  
8 3:00 Central Time. So if you wouldn't mind, we'd like  
9 to recess until then. We think that's probably the  
10 final witness we will have.

11 JUDGE KEY: All right. We will be on recess until  
12 3 p.m. Central Standard Time.

13 MR. GARRISON: Thank you very much.

14 *[Off the record]*

15 JUDGE KEY: You may call your next witness, Mr.  
16 Garrison.

17 MR. GARRISON: The Respondent calls Scott York.

18 JUDGE KEY: Mr. York, please raise your right hand.  
19 (Whereupon,

20 **SCOTT YORK**

21 having been sworn/affirmed, was called as a witness herein,  
22 and was examined and testified, as follows:)

23 JUDGE KEY: Proceed.

24 **DIRECT EXAMINATION**

25 Q. MR. GARRISON: Thank you very much, Judge Key.

- 1           Could you state your name for the record?
- 2   A.    Scott York.
- 3   Q.    And spell your last name, please.
- 4   A.    Y-O-R-K.
- 5   Q.    Is it Scott with two T's?
- 6   A.    That's correct.   Yes.
- 7   Q.    Scott, are you employed currently?
- 8   A.    Yes, I am.
- 9   Q.    By who?
- 10  A.    Ragle Incorporated.
- 11  Q.    And what is your current position with Ragle
- 12  Incorporated?
- 13  A.    President.
- 14  Q.    How long have you been Ragle's president?
- 15  A.    I believe for about seven years.
- 16  Q.    Fair to say since about 2015?
- 17  A.    Yes, I believe that's correct.
- 18  Q.    And just on a high level, Scott, what are your duties
- 19  and responsibilities as Ragle's president?
- 20  A.    Basically, I am in charge of estimating and operations
- 21  here for the company.
- 22  Q.    And how long in total have you been employed by Ragle?
- 23  A.    For about 30 years.   As a full-time employee, I've
- 24  been here for about 25 years.
- 25  Q.    So since about 1998 then?

1 A. Correct. Yes.

2 Q. Before becoming president in about 2015, what other  
3 positions did you hold with Ragle?

4 A. Vice President, Project Manager, Project Engineer,  
5 Surveyor, Estimator.

6 Q. And just briefly about your educational background.

7 Do you hold any post-secondary degrees?

8 A. Yes. I have a degree in civil engineering from Purdue  
9 University.

10 Q. And Scott, can you tell us what Ragle does?

11 A. Pretty highly diverse heavy civil contractor. We do  
12 utility work, bridge work. Basically, everything that  
13 would fall under highway construction except asphalt  
14 paving. So a lot of underground wet utilities. A lot of  
15 bridge reconstructions. A lot of new bridge construction.

16 Q. And where does Ragle generally perform that work?

17 A. Well, we have two bases of operations we have here in  
18 the Midwest, which can be really anywhere. There's really  
19 no jurisdictional boundary as to where we would perform  
20 work here. Normally, it's within two hours or so of  
21 Newburgh, the home office. We also have operations in the  
22 state of Texas. Here in the Midwest, we've done work in  
23 Illinois, Indiana, Kentucky.

24 Q. You mentioned a few of the types of heavy commercial  
25 construction highway projects that Ragle performed.

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1 Does Ragle also do signal and lighting work?

2 A. Yes, we do.

3 Q. What does that entail generally?

4 A. Basically, doing intersections, traffic signals for  
5 intersections.

6 Q. What about shore existence?

7 A. Yes.

8 Q. And what are those?

9 A. Sheet piling. I've done Tyvek walls. Done timber  
10 retaining walls. Done cast in place retaining walls.  
11 Basically, anything that requires concrete or shingling or  
12 shoring work, we have done a little bit of all of that.

13 Q. Generally, Scott, how many individuals does Ragle  
14 employ?

15 A. Very seasonally, but from 500 to probably 700  
16 employees.

17 Q. Is that also very based on the number and type of jobs  
18 that Ragle is performing?

19 A. Yes, it does.

20 Q. What percentage of those employees working the field  
21 versus in management or in office?

22 A. It's probably at least 90 percent of those employees  
23 are field employees.

24 Q. And with respect to those field based employees, does  
25 Ragle have collective bargaining relationships with any

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1 labor unions?

2 A. Yes, we do.

3 Q. And which ones?

4 A. The carpenters, the laborers, and the operators.

5 Q. And where geographically does Ragle have its  
6 relationships?

7 A. Here in the Midwest. So, basically, our jobs in  
8 Kentucky, Illinois or Indiana.

9 Q. And how long has Ragle had those relationships?

10 A. Since the beginning of its existence. Basically, the  
11 mid 90's.

12 Q. In performing construction projects, the type that you  
13 mentioned, I presume Ragle used a variety of heavy  
14 equipment?

15 A. Correct.

16 Q. And Ragle's employees operate that equipment?

17 A. That's correct.

18 Q. Could you just provide examples of the types of heavy  
19 equipment that Ragle's employees operate on these projects?

20 A. Excavators, back hoes, dozers, rollers, cranes to name  
21 a few.

22 Q. Does Ragle also use single axle trucks on its  
23 projects?

24 A. Occasionally, yes.

25 Q. Is Ragle in the trucking business?

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1 A. No.

2 Q. And so how does Ragle use single axle trucks on its  
3 construction projects?

4 A. Basically, I refer to them as rolling dumpsters,  
5 basically for clean up purposes. We'll use them if we got  
6 a driveway to grade and a small amount of dig out that  
7 really isn't a substantial amount and/or to do clean up  
8 work, haul small amounts of stone within the project limits  
9 from driveway to driveway or from pipe trench to pipe  
10 trench.

11 Q. And how long has Ragle used those trucks in that  
12 matter?

13 A. Since the beginning of us performing work.

14 Q. I want to talk a little bit about Ragle's customer  
15 base and the requirements those customers had for Ragle.

16 What type of -- you mentioned the type of work that  
17 Ragle performs, but what type of entities does Ragle  
18 perform work for?

19 A. Primarily, municipalities. So in other words, cities  
20 and states. Counties. Things of that nature and we do  
21 work for both private and public utility companies as well.

22 Q. There's some commercial customers thrown in there as  
23 well?

24 A. Occasionally, yes.

25 Q. Are those jobs typically smaller?

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1 A. Normally, yes.

2 Q. Okay. What factors determine the location and type of  
3 work that Ragle performs?

4 A. It's just job availability and really crew  
5 availability. So, you know, we normally have a reasonably  
6 set number of employees that work in a geographical  
7 location and we tend to look at work within a few hours of  
8 where they are located normally.

9 Q. And then I take it it would depend on the type of  
10 projects that those customers have available?

11 A. True.

12 Q. And so when there are available projects, how does  
13 Ragle go about obtaining work from those entities that you  
14 just mentioned?

15 A. Nearly all of our projects are competitive low bid,  
16 lowest responsive bit. So in other words, if you have your  
17 paperwork filled out correctly and you meet all of the  
18 requirements of the contract and you're the low bidder,  
19 then normally, you're awarded the project.

20 Q. So with the public sector entities that you mentioned,  
21 do those requirements that you're required to meet include  
22 using DBEs, MBEs, or WBEs?

23 A. In most instances, yes.

24 Q. And just explain for us. What is -- when Ragle is  
25 required to meet DBE -- just use that generally for DBE,

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1 MBE, and WBE. When Ragle is required to meet DBE  
2 standards, what does that require Ragle to do on its  
3 projects?

4 A. Well, you have to do an analysis of what work types  
5 there are and project and then you have to go out and  
6 solicit quotations for the available work. I mean, you  
7 know, every job varies dramatically as to what the  
8 requirements are from material suppliers and  
9 subcontractors. You have to change what work you can go  
10 solicit. DBEs or minority contractors to perform that  
11 scope or those scopes of work and they change from project  
12 to project. The percentages change and the work type  
13 availability changes as well.

14 Q. And I take it on each one of those projects, you're  
15 trying to come up with the most economical means to meet  
16 that goal, whatever it is?

17 A. In most instances, our projects are the lowest  
18 responsive bidder gets the job so we have to come up with  
19 the lowest, most economical way to obtain whatever that set  
20 goal is.

21 Q. Are there particular areas of work where Ragle  
22 utilizes outside entities to reach its DBE participation  
23 goals?

24 A. Yes. It's traffic control normally. That's normally  
25 a scope of work that there are minority contractors

1 available. Trucking is a big one for us at this point in  
2 time. You know, there used to be MWDBE guardrail  
3 installers. Unfortunately, those have gone by the wayside  
4 and rebar installation and structural steel insulation,  
5 those are really the major components of the scopes of work  
6 that we look for minority contractors.

7 Q. I want to talk specifically about the trucking or  
8 hauling work.

9 What type of trucking work does Ragle use outside  
10 entities to perform?

11 A. It varies from job to job, but, you know, hauling  
12 construction debris, hauling dirt on a project, hauling  
13 dirt to a project, hauling aggregates to jobs. Things of  
14 that nature.

15 Q. And what types of trucks are used to perform that  
16 work?

17 A. Normally tri-axles and sometimes, dump trailers.

18 Q. And how do those trucks differ from the single axle  
19 truck you mentioned that Ragle utilizes from time to time  
20 on its jobs?

21 A. They haul from a cost economic standpoint. Normally,  
22 for a tri-axle, you're hauling 18 to 20 tons on a tri-axle  
23 and for a single axle, normally, you're hauling six to  
24 eight tons.

25 Q. So the single axles, I take it, can't perform the same

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1 type of work that the outside tri-axle firms perform?

2 A. That's correct so to say.

3 Q. Does every one of Ragle's projects require tri-axle  
4 hauling work?

5 A. No.

6 Q. Are there jobs or projects where that type of tri-axle  
7 hauling work is the only way for Ragle to meet its DBE  
8 goals?

9 A. There certainly has been instances that that's  
10 correct. Yes.

11 Q. Generally speaking, what types of jobs are those?

12 A. Normally, utility jobs. Utility jobs that don't  
13 require guardrail or very much maintenance of traffic,  
14 permanent striping. About the only way you can obtain  
15 those goals is with trucking firms.

16 Q. Because I take it there wouldn't be DBE suppliers you  
17 could use on those jobs?

18 A. Occasionally, there is. Normally, they're charging a  
19 markup on the material and therefore, it's not necessarily  
20 the most economical way to be the low bidder. So we have a  
21 commercially valuable function from a trucking firm where  
22 we're already integrated our services in the project. So  
23 adding costs at the sake of just getting DBE participation.

24 Q. Are there other types of jobs, Scott, where dump  
25 trucking work is not needed to meet Ragle's DBE goals?

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1 A. Yeah. There's some projects where we really don't  
2 have any hauling services. Case in point, a bridge  
3 rehabilitation project. There really isn't any materials  
4 leaving or entering the jobsite, so we have to try to find  
5 other means and methods to obtain minority goals.

6 Q. So does having a large job from a total contract price  
7 mean that Ragle would require a certain amount of dump  
8 trucking work on the job?

9 A. Unfortunately, the job -- it's not a linear  
10 relationship. It just completely depends upon the type of  
11 project as to how many trucks or the trucking percentage.  
12 Not necessarily the size of the job that dictates the  
13 amount of trucking.

14 Q. Scott, does Ragle own or operate any tri-axle dump  
15 trucks?

16 A. No.

17 Q. Why not?

18 A. It's just not economical for us. I mean,  
19 unfortunately, our trucking needs go from one or two trucks  
20 sparingly to 20 trucks. It's impossible for us to gauge  
21 the number of trucks that we need at any one given time.  
22 It changes, you know, month to month, day to day, minute to  
23 minute, hour to hour and it's more economical for us to  
24 depend upon somebody else to run the trucking company.

25 Q. And how does Ragle utilize those trucking companies

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1 with that type of variable demand?

2 A. We leave it to the trucking company to manage the  
3 resources they require and they have a network of other  
4 firms they work with.

5 So in other words, if we call somebody and we need ten  
6 trucks and they only operate five, they normally have  
7 somebody else they work with that can fill the gap if they  
8 share trucks amongst themselves.

9 So in other words, they really act as the dispatcher  
10 in a lot of regards for the variants of trucks that we  
11 require.

12 Q. Do any of Ragle's employees drive tri-axle dump trucks  
13 in connection with Ragle's work?

14 A. No.

15 Q. What factors does Ragle examine when determining which  
16 dump trucking companies it uses to provide that service?

17 A. Well, it really depends upon the project. You know,  
18 it depends. We normally -- obviously, price dictates most  
19 instances, but you have to throw the minority component  
20 into it, which drives price. So what do I mean by that  
21 comment? Well, whether DBE or him or WBE may be slightly  
22 higher than another trucking firm, but as far as the  
23 economics of how to we get to participation at the lowest  
24 price. So we look at price and we look at whether they are  
25 or are not minority and what are our minority goals for

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1 that project.

2 Q. Does availability and utilization come into play at  
3 all?

4 A. Absolutely. There are some jobs where we may need ten  
5 trucks for 30 days straight and there are some firms that  
6 can't provide that service. So it depends upon what the  
7 availability is. There's many minorities that you call and  
8 say our intent is to use your firm on this job and they'll  
9 say how many trucks do you need and how often. If you say  
10 we need ten trucks for X number of days, then, you know,  
11 that weighs into their decision as to whether or not they  
12 want to enter in a contract on the job.

13 Q. And so once you've engaged on a trucking firm on a  
14 particular job, how does Ragle utilize that company's  
15 services from day to day?

16 A. It changes. The superintendent will call and  
17 determine how many trucks they need and they will reach out  
18 and schedule the number of trucks with, you know, whoever  
19 their trucking dispatcher is. So one day, they might need  
20 two trucks on a pipe dig out. The next day, they may need  
21 none. The next day, they might need milling and need ten  
22 trucks for milling and five trucks on pipe dig out. It  
23 changes day to day and the superintendent on each project  
24 will then reach out and coordinate that with whoever  
25 coordinates trucks for whatever firm they're using.

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1 Q. And in the past, Falcon Trucking was one of the dump  
2 trucking companies that Ragle used from time to time,  
3 right?

4 A. That's correct.

5 Q. Did you have any involvement in Falcon's operations?

6 A. No, I did not.

7 Q. So if you know, how did Ragle determine when it would  
8 use Falcon to perform work on Ragle projects?

9 A. It went in -- basically, you had to analyze their  
10 quotes just like we did anybody else. We looked for the  
11 lowest way to obtain whatever goals we needed for the  
12 project.

13 In other words, whether we needed minority  
14 participation, which was really not relevant if -- I mean,  
15 we'd still use minority firms. You know, it went to the  
16 lowest price and then, the lowest possible way to obtain  
17 minority participation. Their quotes were looked at just  
18 like everyone else. There were jobs they bid to us that  
19 they weren't the low bidder and we used another firm.

20 Q. And so how did Falcon compare to other tri-axle  
21 hauling firms when you were assessing the factors you just  
22 testified you'd examine from job to job?

23 A. The first negative they had is they weren't a  
24 minority. We started to do a lot of work for water, sewer,  
25 and utility and they required considerable M and WBE

1 participation. Unfortunately, there weren't really any  
2 other ways to get that participation, except for trucking  
3 firms.

4 So once again, the first order of business is how do  
5 we become the low bidder and reach our minority  
6 requirement, minority bills.

7 Q. Scott, did you ever direct anyone not to use Falcon  
8 Trucking?

9 A. No, I did not.

10 Q. And to your knowledge, was anyone at Ragle directed  
11 not to use Falcon Trucking?

12 A. Not to my knowledge.

13 Q. Scott, you've got a binder in front of you and I can  
14 pull it up on the screen now, but I'd ask you to take a  
15 look at Exhibit 31. Respondent's Exhibit 31.

16 So I'll represent to you, Scott, that this is a  
17 summary that's been prepared. Various Ragle jobs and the  
18 hauling firms and services that were used on particular of  
19 those jobs. I'd ask you, if you could, look at page two of  
20 that document. Under the non-DBE hauling firms used -- for  
21 example, on the top line on Ragle Job Number 2014-016, one  
22 of those is called Mulzer Crushed; do you recognize that  
23 name?

24 A. I do. Yes.

25 Q. What is it?

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1 A. Mulzer Crushed Stone is a supplier of crushed  
2 aggregate. They also have their own trucking firm. So  
3 when they quote us a price, they normally quote us a  
4 delivered price for aggregate. So we would track this  
5 normally where we would have the aggregates material and  
6 then, we would have Mulzer Trucking as a trucking component  
7 as in the job cost. So this is Mulzer hauling the material  
8 they supply.

9 Q. And did they quote that on an hourly rate or some  
10 other basis?

11 A. No. They quoted on a time basis. It's included as a  
12 delivered price of their material.

13 Q. MR. GARRISON: Okay, and are there any other providers  
14 that you recognize in that column that are similar to  
15 Mulzer Crushed?

16 JUDGE KEY: Yeah. I'm going to ask you just to backup  
17 so that I can understand this document as we go through it.  
18 Okay?

19 So let's just look at Job 2014-16. Is that a job that  
20 you actually, excuse me, that Falcon actually -- is this  
21 job a Ragle job? Is this a Ragle job?

22 A. THE WITNESS: That's correct.

23 JUDGE KEY: Okay, and that's -- the first one is just  
24 a job number?

25 THE WITNESS: Yes. Our Ragle Incorporated internal

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1 number.

2 JUDGE KEY: Why don't you just walk me across the row?  
3 This first row so I have an understanding as we talk about  
4 the document what it is.

5 THE WITNESS: Okay. So the first column is Ragle  
6 Internal job number. The second column is the owner's  
7 contract number. So this one happens to be a INDOT  
8 contract, an Indiana Department of Transportation contract.  
9 That's what the IR-30624 number is. Then, you have the  
10 description. That's just a description of its location or  
11 job. Then, it's got the county. We have the original  
12 contract amount. Then, we have whether there was...

13 JUDGE KEY: Now, when you say the original contract  
14 amount, what does that represent? What does that mean?

15 THE WITNESS: That represents the original contract we  
16 were awarded. It's a unit price contract so this is the  
17 total of those units that our contract unit price is  
18 extended and added up. That's the summation. So this is  
19 the original contract amount as bid to the owner.

20 JUDGE KEY: Okay.

21 THE WITNESS: The next column is whether or not there  
22 was any minority participation to which we answered yes.

23 The next column is the amount of DBE requirement. So  
24 on this particular job, it was 12 percent. So because it  
25 was D, it didn't require any M or W. So normally, that

1 just is determined by whether there is federal money or  
2 not. Then, there's the total hauling services. So the  
3 total amount of hauling services that we had originally  
4 estimated in this job.

5 Then, you have two columns. One is for DBE firms used  
6 for trucking and then for non-DBE hauling firms used.

7 JUDGE KEY: So on this job -- on this particular job,  
8 you used those three DBE firms and those five non-DBE  
9 firms?

10 THE WITNESS: That is correct.

11 JUDGE KEY: Okay, and then the last two columns?

12 THE WITNESS: It appears that there is a non-DBE  
13 hauling services total amount and then a Falcon Trucking  
14 hauling services total amount.

15 So I would say that those two -- if you summarize  
16 those last two columns, that's what technically non-DBE  
17 hauling firms used would summarize, too, I believe.

18 So if you look at the last three columns, the last two  
19 columns represent if you added those numbers up, what those  
20 five firms hauled because those are non-DBE trucking firms.

21 JUDGE KEY: So what am I missing that -- those two  
22 numbers add up to approximately \$125,000 and then, your  
23 total hauling service estimated was \$962,000.

24 THE WITNESS: The remaining portion is DBE trucking  
25 dollars. So I mean technically speaking, there needs to be

1 another column I guess that says the total of the DBE  
2 trucking dollars, which would actually be the total hauling  
3 services minus the last two columns.

4 JUDGE KEY: Okay.

5 THE WITNESS: Does that explanation make sense?

6 JUDGE KEY: Yeah, and just -- I've never seen this  
7 document and I don't -- I want to understand it as we talk  
8 about it and be able to follow what's in it. So I -- so  
9 there -- if you subtract I guess the remaining 140ish or  
10 \$740,000 worth was done by DBE firms.

11 THE WITNESS: That's correct.

12 JUDGE KEY: Okay. Continue and thank you for your  
13 patience with me to understand the document. Go ahead.

14 Q. MR. GARRISON: Let's just take a look at another one,  
15 Scott. If you could, turn the page to page three and focus  
16 on Ragle Job Number 2018-035.

17 A. THE WITNESS: Okay.

18 Q. What type of job was that?

19 A. It's a drainage improvement project.

20 Q. So would that be a utility project or something  
21 similar to it?

22 A. Yes.

23 Q. Okay, and that was performed in Vanderburgh County.  
24 It looks like the contract was \$188,000?

25 A. That's correct.

1 Q. There was a DBE requirement?

2 A. No. There's an MBE and WBE requirement by the looks  
3 of things.

4 Q. A 12 percent MBE and seven percent WBE?

5 A. Yes.

6 Q. And then, the total hauling services there was  
7 \$28,000.

8 A. That's correct.

9 Q. So Samm Trucking. Is that the type of job where there  
10 would be other areas where Ragle could meet its DBE  
11 requirements?

12 A. Really in a situation like that, the only other place  
13 that would be available is just getting a broker that puts  
14 markup on the material.

15 So in other words, there are some brokers that come in  
16 there and just say we'll provide the concrete pipe or  
17 whatever that -- I'm assuming this was a concrete pipe job.  
18 I don't remember. We're just arbitrarily charging five  
19 percent markup on the material and from an M or WBE  
20 perspective, that's considered to be a commercially  
21 valuable function and they get credit for that material.

22 But once again, we have to be the low bidder. So in  
23 most instances, we have to do an analysis of what's the  
24 cheapest way we can get the participation. In this case,  
25 we used an MBE trucker because it was already a function

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1 that was required on the job.

2 MR. GARRISON: And I would -- just a commentary on the  
3 summary that was prepared by Counsel based on the evidence  
4 that's in the record. Judge Key, the non-DBE hauling  
5 services in the second to last column is inclusive of the  
6 Falcon Trucking Hauling Services.

7 So for example, in that job on page two that you were  
8 reviewing, the non-DBE hauling services of \$75,247.05, that  
9 includes the \$49,289.50 that went to Falcon.

10 JUDGE KEY: Got it.

11 MR. JOHNSON: And I don't know -- there was some  
12 discussion and maybe I can get clarification on this  
13 document. I don't know if I'm -- if I can jump in as kind  
14 of a Voir Dire type clarification from Counsel or if you'd  
15 rather wait my turn, but we're trying to getting the  
16 document clear so everybody understands.

17 MR. GARRISON: I have no objection to that, Derek.

18 JUDGE KEY: Go ahead.

19 VOIR DIRE

20 MR. JOHNSON: So I guess I just want to make sure my  
21 understanding, that I'm understanding correctly that the  
22 category that's the DBE hauling firms used. So that column  
23 there is -- my understanding is that that reflects  
24 companies that were used. For example, in that first line,  
25 Starnes, R&J, and Sann, that were DBE firms, but that does

1 not necessarily mean that they actually used that work to  
2 claim DBE credit for that job. So...

3 JUDGE KEY: Is that true? So my understanding was in  
4 fact on this job, did you use those three firms on this  
5 job, first?

6 MR. GARRISON: Yes. All of these firms were used on  
7 this job. That's what the underlying records that were  
8 entered...

9 JUDGE KEY: Okay. Second, did you use that \$700,000 -  
10 - it was what you were asking, Derek. Did you use that  
11 \$700,000 and some to claim your DBE credit? Is that what  
12 you're asking, Derek, or Mr. Johnson? Excuse me.

13 MR. JOHNSON: Right. That's fine. And no, my  
14 understanding, again from prior discussions before we went  
15 on the record when this was first created, is that that's  
16 not necessarily the case.

17 MR. GARRISON: Derek, that's correct because in all of  
18 those files, there were not documents that show that all of  
19 the amounts were used to meet DBE requirements.

20 MR. JOHNSON: So in the underlying documents, Your  
21 Honor, the Respondent's Exhibit 100 through 205, each of  
22 which, with a few exceptions that match up to these Ragle  
23 job numbers, those, as I understand it, to reflect the  
24 documents that were available and were produced pursuant to  
25 a subpoena and are being introduced.

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1 But you may, for example, look at some of these  
2 projects and there was a DBE certification that says this  
3 is how we met our DBE requirements on this job and some or  
4 all of these trucking companies that are listed as DBE  
5 haulers were not used to get the DBE certification. So I  
6 just want to make sure that's, as you're looking at this  
7 document, that that's clear.

8 Now, maybe some of them were. Maybe some jobs, it  
9 matches up one for one that all of the DBE hauling  
10 companies were used and that amount was claimed as part of  
11 the DBE, but it's very possible on some of these projects  
12 that, you know, they got the DBE through other means, that  
13 these companies weren't actually used as part of the DBE  
14 requirement.

15 JUDGE KEY: Is that correct?

16 MR. GARRISON: That could be true for some, Judge Key.  
17 Yes, depending on the nature of the underlying documents on  
18 each job and each file.

19 JUDGE KEY: Okay. So Mr. Johnson, I assume you are  
20 going to ask -- on cross-examination, I assume you're going  
21 to ask questions in relation to this?

22 MR. JOHNSON: I can explore it some, Your Honor, but I  
23 think this document was created by Counsel. It wasn't  
24 created as -- it was created as a summary by Counsel. It  
25 wasn't created by this witness, for example. So I mean,

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1 I'm happy to ask these questions of the witness, but I'm  
2 not sure the witness is with the underlying documents to be  
3 able to say yes, this particular firm -- I mean, the  
4 documents say what they say, but again, I don't know if the  
5 witness -- and maybe he is able to testify about each of  
6 the underlying documents and stuff like that, but I think -  
7 - I more want to make the point as we were discussing the  
8 summary that Counsel has provided to make sure we're fully  
9 understanding what the summary is and more importantly,  
10 from my side, what the summary isn't, if that makes sense.

11 JUDGE KEY: Okay.

12 MR. GARRISON: Judge Key, if I may?

13 JUDGE KEY: Sure.

14 MR. GARRISON: So I think this was the underlying  
15 purpose of us unfortunately introducing all 106 of the  
16 files that led into this because of our discussion with the  
17 General Counsel in advance of today's hearing about this  
18 issue and the arguments that each party may want to make  
19 about expenditures on each of these jobs. I don't mean to  
20 mischaracterize that.

21 JUDGE KEY: So let me just ask.

22 Mr. York, if we look at the 14- -- the 2014-16 job and  
23 give me a second here.

24 *[Short pause]*

25 So it looks to me like the difference between the

1 column entitled total hauling services dollars of  
2 \$962,980.40 and the 75,247.05 non-DBE hauling services  
3 represents there's \$887,733.35. Do you know whether or not  
4 that \$887,733.35 went towards your 12 percent DBE  
5 requirement?

6 THE WITNESS: Definitively, no. I'd have to look at  
7 the DBE-3 Form that was submitted when the project was  
8 finalized.

9 JUDGE KEY: So where do you look to find how you met  
10 that 12 percent DBE requirement?

11 THE WITNESS: There's documentation that was submitted  
12 to the state once the project was finalized. There's a  
13 DBE-3 Form that once you receive final quantities from the  
14 state, you submit with documentation back to the state of  
15 Indiana that says these are, which the DBE then signs off  
16 on.

17 So in other words, we create a form and we send it to  
18 Starnes Trucking that says our records indicate we paid X  
19 number of dollars to you. We send it to them, they sign it  
20 if they agree, and send it back to us.

21 So I would have to find those documents as submitted  
22 to tell you what percentage actually was used for meeting  
23 the participation goal.

24 JUDGE KEY: Very well. Okay. Continue.

25 Do you have anything further, Mr. Johnson?

1           MR. JOHNSON: And I guess it maybe kind of matches up  
2 with what we're saying, but I guess also just so you  
3 understand, Your Honor, and this is by no means meant to  
4 fault Counsel or the subpoena was not responded to, but  
5 that when you go back and start matching up some of the  
6 documents from this summary to the, you know, corresponding  
7 Respondent's Exhibit 100 to 205, there may not be because  
8 the document didn't exist or wasn't produced. There may  
9 not be, for example, the certification that Mr. York is  
10 referring to.

11           So I think that's an issue in the evidence that you  
12 can weigh however you feel appropriate to way, but I guess  
13 that's -- I want to make sure that that is understood is  
14 that -- so for example, when Mr. York says you can go pull  
15 up the, you know, the form three to see the actual  
16 certification submitted, it's possible for many of these  
17 jobs -- I don't mean to characterize this many, but it's  
18 possible for these jobs that there is no certification in  
19 the record before you that will say exactly how it was met.

20           MR. GARRISON: And just to clarify, that's only  
21 required on INDOT projects. I don't know that there's a  
22 requirement for some of these other municipalities. I just  
23 want to bring that to light. I'm only referring to the  
24 true INDOT projects and in the particular job as mentioned  
25 isn't in that project.

1           MR. JOHNSON: So for example, some of these jobs and  
2 the one you were referring to just now, the 2014-016, I  
3 just quickly flipped through. I think it's Respondent's  
4 Exhibit 15 is the one that matches up.

5           I think, from what I can tell, I don't know that I saw  
6 a certification in here. I think there's a page -- it  
7 looks like it's page 123 that is a -- I think it's a plan  
8 of how they're going to get the DBE, but I don't know that  
9 there's necessarily a document that is how they actually  
10 got there, if that makes sense.

11          So I just -- again, I don't want to -- I think the  
12 documents need to be in the record, but I also like to -- I  
13 want to make sure that the record is clear that the  
14 documents, you know -- everything that was available was  
15 produced. I'm not disputing that, but then again, I don't  
16 want the tryer to look at this or down the road on appeal  
17 look at this and think that oh, this is exactly how it was  
18 met because that document may not exist that says this is  
19 how the certification was met. So if that makes sense.

20          MR. GARRISON: And I would just comment, Judge Key,  
21 that for many of these, as Mr. York mentioned with the DBE-  
22 3 Certification on the INDOT jobs in particular, those  
23 documents do exist.

24          All right. So certainly, that's why we felt that it  
25 was important to have the individual files for each one of

1 these jobs in case there are arguments that need to be made  
2 about those particular jobs, but at the same time, I think  
3 in discussions with the General Counsel's office, there's  
4 no allegation that the information reflected in the  
5 document that's in evidence, that's Exhibit 31, is  
6 inaccurate in any way in terms of its support in the  
7 underlying records for the amount of hauling services that  
8 we're able to have on this particular jobs and the DBE and  
9 non-DBE hauling firms that were used. The dispute between  
10 the parties that we presume will be addressed on post  
11 hearing briefing will be the satisfaction of a DBE  
12 requirement and whether hauling and the amount of hauling  
13 that was used from DBE firms was necessary to do so.

14 MR. JOHNSON. Right. I think that's right and I'm  
15 sorry if I mischaracterized that, Mr. Garrison.

16 He's absolutely correct in terms of Respondent's  
17 Exhibit 30, 31. The numbers are accurate. You know, they  
18 might be off a little bit here and there, but by in large,  
19 from spot checking, the numbers are accurate.

20 So yes, on that one we're looking at, there was  
21 roughly \$962,000 of hauling services that were done and  
22 75,000 of that was done by non-DBE firms and the rest was  
23 done by DBE firms. Again, with the...

24 JUDGE KEY: But I shouldn't read that to say that  
25 \$887,733.35...

1           MR. JOHNSON: Was used towards the 12 percent to meet  
2 the DBE requirement for that project. It may have been,  
3 but it may not have been.

4           JUDGE KEY: Okay. All right.

5           MR. JOHNSON: That was a clarification that came up  
6 from my misunderstanding of the document when I first  
7 looked at it coming into the hearing, so.

8           JUDGE KEY: No, I would've -- I assumed incorrectly of  
9 what the purpose that I could have assumed the \$887,733 was  
10 used towards the 12 percent. That was my understanding  
11 before we had this conversation.

12          So go ahead, Mr. Garrison.

13                               DIRECT EXAMINATION (Cont'd)

14 Q.       MR. GARRISON: Thank you very much, Judge Key.

15          Okay. Scott, I do have some more questions about this  
16 document. I guess one of my questions before Judge Key  
17 asked for a clarification on it was as to the nature of the  
18 non-DBE hauling firms used and you explained to her what  
19 Mulzer Crushed on various on the jobs that worked on -- I  
20 think my question was whether there are any other firms  
21 listed under the non-DBE hauling firms that are similar to  
22 Mulzer Crushed that provided hauling at that tonnage rate  
23 in connection with providing materials, rather than solely  
24 providing hauling an hourly rate.

25 A.       THE WITNESS: Yeah. There's cave quarries, which I'm

1 not sure which cave quarry. I'm not entirely sure what  
2 that is. I've never seen Cauqua Cave Quarries. I'm not  
3 exactly sure what that is, unless it's some -- there's cave  
4 quarries, which is also a provider of crushed aggregate  
5 products. I don't know if there's some -- in this  
6 document, it appears there was probably a job cost or  
7 something that was used before cave quarries, but David  
8 Enterprises, you know, they provided trucking for asphalt.  
9 So they were both manufacturer and haul asphalt materials.  
10 Those are the two that I immediately see here.

11 Q. Okay, and I'll just not generally it seems as -- you  
12 look at page -- the column on non-DBE firms used by Ragle  
13 on page two and then onto page three and four that go into  
14 -- it's the 2017, 2018, and into 2019. Just speaking  
15 generally, there is a decreased amount of non-DBE hauling  
16 used. Why is that?

17 A. The percentages. The required DBE percentages  
18 increased so you see -- I don't know what year. I'd have  
19 to go through this document. You see a sharp increase.  
20 There were a lot of seven percentages. Seven to ten  
21 percent and then, as time went on, you see an increase  
22 really of about 12 to 14 percent.

23 At that time, we had a DBE traffic control  
24 subcontractor that ceased their operations and that was one  
25 less way for us to get participation through other means

1 and methods besides trucking.

2 Q. And generally, what's been your observation of the  
3 marketplace as to non-DBE hauling firms in the area and the  
4 frequency with which they're available to provide support  
5 for Ragle's operations?

6 A. There aren't many left. I mean, there's a few small  
7 independent owner/operators, but the larger scale trucking  
8 firms are now minority. Whether they're M or W or DBEs,  
9 predominantly, you see most of those that have larger  
10 amounts of trucks being minority contractors.

11 MR. GARRISON: I have nothing else for you, Scott.  
12 Thank you.

13 THE WITNESS: Thank you.

14 JUDGE KEY: Mr. Johnson?

15 MR. JOHNSON: Just a few questions, Your Honor.

16 JUDGE KEY: Um-hum.

17 CROSS-EXAMINATION

18 Q. MR. JOHNSON: I appreciate your time here, Mr. York.  
19 I'm Derek Johnson with the General Counsel's office. I  
20 have just a few follow up questions to ask you. Again, as  
21 I ask a question, if you don't understand it or need me to  
22 repeat it or clarify it, please just feel free to ask me.  
23 Okay?

24 A. THE WITNESS: Yes, sir.

25 Q. So I guess first I want to work backwards. I wasn't

1 clear. The Mulzer Crushed and the cave quarries. Maybe  
2 I'm misunderstanding.

3 Are you saying that the dollar value that would be  
4 listed on this Respondent's Exhibit 31, for example, would  
5 include the material plus hauling or is that somehow broken  
6 out?

7 A. It's somehow broken out, I believe. I'd have to  
8 verify that, but normally, what happens, when they quote us  
9 a project, that is for material delivered. So that  
10 includes the material portion, plus the trucking.  
11 Normally, we have to call and ask them for a material price  
12 only at their facility.

13 So on some projects, if we need the participation, we  
14 will have a DBE firm go pick up the material and then take  
15 credit for the trucking. That's not on every project. The  
16 tonnage rates that they actually quote delivered, we can't  
17 do it for that tonnage amount.

18 So in other words, if we pay trucks on an hourly basis  
19 and haul that material, we're losing money and we have to  
20 bid accordingly occasionally to get the participation when  
21 there's no other way to get it.

22 Q. Okay, but -- I just want to make sure. Go back to the  
23 question. You think it's broken out on this, but you're  
24 not entirely sure, correct?

25 A. I'm not entirely sure without further investigation.

1 Q. Okay. In terms of -- I want to make sure I  
2 understood. In terms of the DBE and I'll use DBE broadly  
3 to mean CBE, DBE, MBE. In terms of DBE requirements on a  
4 project, I think you said you could meet that through  
5 materials or subcontractors; is that right?

6 A. It depends on the project type. Every job is  
7 different. So there are -- you know, there are some  
8 projects that case in point have large amounts of rebar.  
9 There are rebar -- they are DBE rebar installers, but every  
10 job is different. We do such a wide number of projects  
11 that in some instances, those aren't available.

12 Q. But I guess -- I was just speaking more in broad terms  
13 in general. There's a category that you can do DBE through  
14 supplies on a jobsite or you can do it on contractors on a  
15 job site, correct?

16 And I understand it may vary by project.

17 A. There are projects that meet the criteria. Yes, to  
18 answer your question.

19 JUDGE KEY: I'm still not sure how you answered the  
20 question.

21 So does it -- are there some jobs where the DBE can be  
22 met by material or by labor?

23 THE WITNESS: There are some jobs -- it's a very  
24 difficult question to answer honestly. Each job is  
25 completely different. So there are some jobs where there

1 are other opportunities to meet participation goals other  
2 than trucking.

3 JUDGE KEY: No, no, no. My question is -- I think  
4 it's pretty simple and maybe there is something I am  
5 missing.

6 Are some of Ragle's jobs -- are you able to meet your  
7 DBE requirements through materials or through labor?

8 THE WITNESS: Yes.

9 JUDGE KEY: Are there other jobs when your DBE  
10 requirements must be met purely through labor?

11 THE WITNESS: It really wouldn't be labor. I mean, as  
12 they're a subcontractor, they would be providing other  
13 services besides labor. So they would quote us complete  
14 scopes of work that would include their own material,  
15 labor, equipment, so on and so forth. I mean, maybe I'm  
16 trying to read between the lines between here, but it's not  
17 just labor they provide to us normally. So there's  
18 equipment, labor, materials. It just depends on what work  
19 scope someone is quoting.

20 JUDGE KEY: Go ahead, Mr. Johnson.

21 Q. MR. JOHNSON: And I guess to make sure kind of follow  
22 up on how the previous question was asked.

23 The -- I guess the contractual requirements for a DBE  
24 for a project for example would not say you must use 12  
25 percent DBE materials on this project or you must use 12

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1 percent subcontractors on this project. The requirement in  
2 the contract is just 12 percent DBE and you, as Ragle, get  
3 -- and I understand it may be a function of what type of  
4 work is being done, but you, as Ragle, get to choose how  
5 you get that 12 percent, whether you do it through supplies  
6 or through contractors or all of one or one of or combined  
7 both, correct?

8 A. It's more difficult than that unfortunately. If we're  
9 going to talk DBE and you're doing it for a municipality, I  
10 can't just go have somebody buy material. They have to  
11 provide a commercially valuable function.

12 So in other words, I can't just go buy pipe from  
13 somebody. They just mark it up and sell me pipe. So it  
14 depends on minority types. So in W and MBE, they don't  
15 have to provide commercially valuable functions and  
16 occasionally, I can just have markup charge and purchase  
17 material through another firm.

18 So I hate to make this difficult, but it's a difficult  
19 question to answer in simple terms.

20 Q. And maybe you're answering a more specific question  
21 that I'm meaning to ask.

22 I'm meaning to ask that the contract itself doesn't  
23 specify how you get to the 12 percent DBE MBE goal. You,  
24 as Ragle, get to choose how you get there, correct?

25 A. That is correct.

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1 Q. Okay. Okay. Thank you.

2 And then, I guess obviously, we've focused a lot on  
3 your job or you on behalf of Ragle are trying to meet these  
4 DBE requirements that are put on Ragle by municipalities,  
5 city, and state governments, correct?

6 A. That's correct.

7 Q. The DBE requirements aren't the only, you know,  
8 requirement regulation that is put on you by municipal,  
9 city, state government when you contract, correct?

10 So you have -- for example, you have OSHA  
11 requirements, safety requirements that you are expected to  
12 meet as part of your project that you're working on,  
13 correct?

14 A. That's correct.

15 Q. So part of your job of overseeing the entire project  
16 is balancing all of the different, you know, regulations  
17 and obligations that Ragle may have to get the project  
18 completed for the dollar you said you were going to get it  
19 done for, correct?

20 A. That's correct.

21 Q. Okay, and I think you referenced or talked about --  
22 from the chart, we see the DBE requirement kind of -- I  
23 think you sort of indicate changed over time, but I want to  
24 make sure I understand.

25 For the purpose of this case, we're sort of focusing

1 on kind of July 2014 and earlier and then April 2016 and  
2 beyond, but focusing on that earlier part, the prior to  
3 July of 2014, there were DBE requirements that existed that  
4 Ragle had to meet, correct? That wasn't a new concept that  
5 came in in 2016, right?

6 A. That's correct.

7 Q. Okay. Let me also ask.

8 You may not be the best witness for this but let me  
9 ask since you're here.

10 Do you have Respondent's Exhibit 32 in front of you?

11 A. Yes.

12 Q. Okay. So this is, as I understand it, a summary that  
13 was provided and prepared by Counsel. But it reflects  
14 invoices that came from Falcon Trucking to other entities.

15 Okay. So I understand -- I recognize you may not have  
16 -- you might not be on the Falcon side of it, but Ragle's  
17 name comes up in here a lot. So I'm going to ask you from  
18 the Ragle perspective. Okay?

19 So on the first page, for example, there's a category  
20 that is HR Hauling that Ragle was billed. The first line,  
21 for example, \$1,995 for HR Hauling. What is HR Hauling?  
22 What would you understand that to be?

23 A. Hourly hauling. So in other words, they're charged on  
24 an hourly basis for their services.

25 Q. Okay, and then, going down a little bit, there's

1 several that are shop truck lease, again, where Ragle is  
2 being billed \$1,000. What do you understand the shop truck  
3 lease would be for?

4 A. Honestly, I'd have to see the invoice. I don't  
5 remember what those invoices are for.

6 Q. Okay, and then, there's the category below it that is  
7 truck rental; do you have any idea what that would have  
8 been billed to Ragle for?

9 A. Which line in particular?

10 Q. 20...

11 JUDGE KEY: Let me stop you for a second.

12 Mr. Garrison, are you going to call somebody to  
13 explain the relevance of this document or explain this  
14 document?

15 MR. GARRISON: It was not our intention to do so,  
16 Judge Key. It's merely a summary of all of the various  
17 invoices and the invoice list that the General Counsel  
18 subpoenaed, which shows Falcon's income over time. In our  
19 view, the document speaks for itself, but...

20 JUDGE KEY: Let me let Mr. Johnson finish. Go ahead.

21 MR. JOHNSON: Well, I mean, Your Honor, I'm just going  
22 to continue going down categories if Mr. ...

23 JUDGE KEY: Yeah. Go ahead.

24 Q. MR. JOHNSON: ... York happens to know or not.

25 So there's a mechanic truck lease about three quarters

1 to the way down the page. Again, \$1,000 that was billed to  
2 Ragle on that first page of Respondent's Exhibit 32, page  
3 one. Do you have any idea what that mechanic truck lease  
4 would reflect?

5 A. Yeah. Falcon owned a mechanics truck and then,  
6 occasionally leased it back to Ragle when Ragle needed an  
7 additional mechanics truck.

8 Q. Okay. In the very bottom, the very bottom of that  
9 first page is fuel charge. Again, \$4,000 that Falcon was  
10 charging Ragle. What's your understanding of what that  
11 fuel charge would be for?

12 A. Occasionally, there was fuel bought by each company  
13 and if they had an excess, they would sell it back to -- we  
14 have a large fuel storage system out here and they didn't  
15 have a need for some fuel that was stored, they would sell  
16 it. They would exchange it back amongst other companies.  
17 It's my understanding.

18 Q. Okay. Okay, and then on the top of the second page,  
19 there's a miscellaneous hauling for a shop. \$8,200 that  
20 was billed to Ragle; do you know what that would have been  
21 for?

22 A. Honestly, I don't know. I would have to see the  
23 invoice.

24 Q. Okay, and then, on the third page, there's a category  
25 that's fuel adjustments, which I guess is different than

1 fuel charge. What's your understanding of what -- I mean,  
2 that's \$27,000 and some of a fuel adjustment charge to  
3 Ragle.

4 A. I would have assumed it would've been fuel that went  
5 back and forth. Again, I'd have to see the invoice to know  
6 for certain.

7 Q. Okay. I guess I think -- let's go to page six. I  
8 think most of these we've already covered, but page six.

9 The second line there is CC reimbursement of \$134.  
10 What would the CC reimbursement have been?

11 A. I'm going to assume it's a credit card. I believe  
12 normally in our job costing, if we see a CC reimbursement,  
13 I believe somebody used a credit card. I can't tell you  
14 what that charge would've been for.

15 Q. Okay. So that would've been Ragle used Falcon's  
16 credit card for something?

17 A. Probably the other way around. There may have been  
18 some charge. Normally, there's a small tools coordinator.  
19 They may have purchased something on their Ragle credit  
20 card and then sent the bill to Falcon.

21 Once again, I'd have to see the invoice.

22 Q. Sure, but this is the flip. This is Falcon invoicing  
23 Ragle for that amount of money?

24 A. That's probably the opposite of that.

25 So maybe somebody, one of Falcon's drivers, bought

1 something for a Ragle job. I'm not sure.

2 Q. Okay, and then, the lowboy lease, which is about the  
3 fourth line down. \$1,500. What would that be?

4 A. I assume they did some hauling, hourly hauling, with  
5 the lowboy. I'm not -- I'd have to go back and look at  
6 what the invoice was.

7 Q. I guess what is a lowboy? I mean, is that a piece of  
8 equipment? A vehicle?

9 A. It is a trailer.

10 Q. Okay. So this would've -- if I'm understanding this  
11 right, this would've been Falcon owned. The lowboy and  
12 leased it...

13 MALE UNIDENTIFIED SPEAKER: Leased it.

14 MR. JOHNSON: ... to Ragle.

15 And Your Honor, I hear other voices in the background.  
16 I just want to make sure the witness is answering and not  
17 perhaps other people. Maybe I'm just overhearing  
18 something, but. So...

19 JUDGE KEYS: Yes. Please. I would ask that the  
20 witness answer the question. I'm not -- go ahead.

21 Q. MR. JOHNSON: Thank you, and I don't mean to imply  
22 anything improper is going on, but I just heard other  
23 voices so I wanted to make sure.

24 So am I correct that this would've been Falcon owned a  
25 lowboy and let Ragle use it for \$1,500 worth?

1 A. THE WITNESS: Not that I'm aware of.

2 Q. Okay. I just -- because it seems to be on here  
3 several different times. It looks like roughly monthly  
4 maybe.

5 A. I'd have to see the invoices to be honest with you.  
6 I'm not sure what those are.

7 JUDGE KEY: Do we have the invoices available?

8 MR. JOHNSON: I would have to go back and check the  
9 subpoenaed records. I'm not sure that we got those  
10 specific invoices.

11 MR. GARRISON: I know we produced, you know with the  
12 shutdown eight years ago, we produced everything that we  
13 had and so we also tried to do, with your encouragement,  
14 Judge Key, is to try to summarize that. So we weren't  
15 providing...

16 JUDGE KEY: I'm just concerned about me needing to  
17 write a decision about a document that's -- while I  
18 encourage you to do summaries, I don't want a document in  
19 evidence that we don't have any idea how to use or I don't  
20 have any idea how to use or the meaning of it.

21 So I'm trying, if possible, to understand what the  
22 document means.

23 MR. GARRISON: I'm sorry. Go ahead, Alex.

24 MR. PRELLER: I was just going to interject. I was  
25 actually the counsel who helped prepare this particular

1 document dealing with the Falcon records and so the data  
2 that you're seeing on here comes from two sources. One is  
3 actual invoices, for which every invoice we could find we  
4 actually provided to General Counsel. Again, dealing with  
5 the wrinkle that this is a shutdown business from last  
6 eight years. For the other batch of data on this  
7 spreadsheet was derived from effectively a secondary  
8 source, which is Falcon records of the invoices that they  
9 sent out. We were able to acquire an invoice history  
10 report that indicated that these various items were  
11 invoiced and for those, we do not have the underlying  
12 invoice in every occasion. We simply have the record that  
13 Falcon did indeed invoice for these various things and so  
14 the difficulty is that for some of these categories of  
15 documents, we have fairly extensive records as to the  
16 actual invoices. In particular, the HR hallway. For some  
17 of the other ones, like lowboy and shop truck lease,  
18 etcetera, there are fewer invoices that were preserved  
19 through this point simply because the perceived relevance  
20 of it back in 2016 or what have you was not apparent.

21 So what I would say is to the extent we're talking  
22 about this is a summary document, some of these entries are  
23 a summary of a summary, but it is still the information  
24 that is available to us at this time.

25 JUDGE KEY: But if we look, for example, at page seven

1 and we go to the first page or the first December 1 of  
2 2015, what that document tells us is that on December 1<sup>st</sup>,  
3 2015, Falcon billed Ragle to lease a lowboy trailer and  
4 Ragle paid \$1,500 for the lease of that lowboy trailer.

5 MR. PRELLER: Correct. I mean, that is the  
6 information that is available from the summary report and  
7 that would be a way to read that summary report. This is  
8 just the...

9 JUDGE KEY: Is there another way to read that  
10 particular line?

11 MR. PRELLER: I mean, the information that appeared on  
12 the summary report simply said lowboy lease. So in turn,  
13 the money seemed to be indicated to be a transfer from  
14 Ragle to Falcon. Exactly all the details of what went into  
15 that was not apparent. That is the sum total of what was  
16 on the summary as well and those summaries were provided in  
17 response to the subpoena. Is that helpful?

18 MR. JOHNSON: And I guess, Your Honor, while we've  
19 been doing this, I've been searching quickly through the  
20 materials that were produced pursuant to a subpoena and  
21 again, I don't think there was anything additionally that  
22 was produced.

23 For example, I just found an invoice from Falcon  
24 Trucking to Ragle. The invoice says shop truck lease,  
25 October 2013. That's the extent of what it says. I didn't

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1 find anything like that that was regarding the lowboy or  
2 anything like that. I found one where the lowboy was...

3 MR. GARRISON: I think we lost Judge Key.

4 MR. PRELLER: Yeah. It says Derek Johnson is the host  
5 now, so.

6 MR. JOHNSON: Does that mean I get to rule, too?

7 MR. GARRISON: No, it does not.

8 *[Off the record]*

9 JUDGE KEY: I apologize. Let's go on the record,  
10 please.

11 MR. JOHNSON: So I think where we were at, Your Honor,  
12 is, again, just in terms of having had a chance just to  
13 quickly search through the underlying invoices as they  
14 exist. Again, as Mr. Preller says, General Counsel doesn't  
15 dispute that Respondent has produced whatever records they  
16 do have, but from what I can tell, I don't know that the  
17 underlying records would be particularly helpful for terms  
18 of answering my questions or giving Mr. York better  
19 clarification.

20 So for example, I haven't found any invoices at all  
21 that refer to a lowboy. I did find like a check payment  
22 receipt from Ragle that just references lowboy, but, again,  
23 doesn't actually explain the uses or the purposes or  
24 anything like that.

25 Similarly, there are invoices for the shop truck lease

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1 that simply just say shop truck lease for whatever month.  
2 But again, without additional explanation or anything like  
3 that. So I was hoping to get some clarification as we had  
4 a witness to try to explain what the exhibit and some of  
5 the terms said of the summary and again, I'm not -- General  
6 Counsel does not dispute the summary itself that the  
7 figures and everything are in there. It's just the records  
8 I don't think are going to be particularly helpful to  
9 clarify beyond what the witness has already testified to.

10 With that said, I think I've read through my list of  
11 the questions I had, in terms of the terminology on this  
12 exhibit itself. So General Counsel has no further  
13 questions of this witness.

14 JUDGE KEY: Mr. Morris?

15 MR. MORRIS: Your Honor, I'd like a moment off the  
16 record if I could to consult with Mr. Johnson and my  
17 client. Maybe just five minutes tops.

18 JUDGE KEY: Sure. We'll be off the record until 4:20  
19 Central Standard Time.

20 MR. PRELLER: Your Honor, before we go off the record.

21 JUDGE KEY: Sure.

22 MR. PRELLER: There is one additional point I would  
23 like to clarify.

24 JUDGE KEY: Sure.

25 MR. PRELLER: One of the exhibits.

1 JUDGE KEY: Sure.

2 MR. PRELLER: So in particular, as it relates to  
3 Respondent's Exhibit 31. Going back to the inventory of  
4 Ragle jobs.

5 JUDGE KEY: Let me just have that open. Go ahead.  
6 Okay. I'm here.

7 MR. PRELLER: So there's no reason you would know this  
8 on the basis of looking at this document, but there are 110  
9 rows. Meaning 110 jobs listed here. However, if you go  
10 look at the number of exhibits that we have posted, we have  
11 only posted 106 exhibits and just to make sure the record  
12 is clear in the event that you're reviewing this document  
13 and going what happened because General Counsel pointed out  
14 the same deficiency if you will in the underlying support  
15 for this document. I believe it was yesterday and we  
16 provided clarification.

17 So I felt this clarification was important to have on  
18 the record. There are four jobs in particular, which all  
19 appear on the first page, and as to these four jobs, 2012-  
20 009, 2012-010, 2012-014, and 2013-001. For all of these  
21 jobs, we did not have formal Ragle records as it relates to  
22 trucking services being performed. However, we did have  
23 Falcon invoices that were, that mentioned those jobs  
24 specifically as it relates to performing incidental,  
25 relatively incidental work. You can see here that is was

1    like -- one was \$1,200. One was \$700 and the other two  
2    were \$140. So these were relatively small one off one  
3    invoice jobs where Falcon picked it up in -- for these four  
4    job numbers. So we did not provide supporting contracts,  
5    DBE statements, things of that nature for those particular  
6    jobs as supporting documentation within Exhibits 100  
7    through 205.

8           However, this was the information that we had  
9    available on the basis of the Falcon invoices, which were  
10   provided in response to the subpoena and which were  
11   included in that. But for those invoices, we have not  
12   included any separate exhibits to substantiate the  
13   information that appears on this demonstrative.

14           So we just wanted that clear in the record as to those  
15   four jobs particularly.

16           JUDGE KEY: Okay. Anything further you'd like to ask  
17   or say, Mr. Johnson, or ask Mr. Preller in that regard or  
18   is...

19           MR. JOHNSON: I think it was clear. I asked the  
20   question last night. Why do we have references here to job  
21   numbers and no corresponding Respondent exhibit and that  
22   was the explanation and I understand it. So that's fine.

23           JUDGE KEY: All right. We'll go and be in recess  
24   until 4:20.

25           MR. GARRISON: Thank you.

1 [Off the record]

2 JUDGE KEY: Mr. Preller, this is Judge Key and I have  
3 a question regarding Respondent's Exhibit 31. Just to --  
4 it relates to the dates as I try and work with this  
5 document.

6 So this document is entitled Summary of Ragle Inc.  
7 Construction Projects Involving Hauling Within  
8 Approximately 1.5 Hours of Newburgh, Indiana Since 2013,  
9 but when we get to the very first Ragle job number, in  
10 terms of the date -- because what's important here is  
11 obviously comparing if work was restarted from 2014. The  
12 work that existed in 2014 was restarted in 2016.

13 So the very first job has 2011. So how, if at all,  
14 does the Ragle job number correspond to the date in which  
15 the work was performed?

16 MR. JOHNSON: You're muted, Alex.

17 MR. PRELLER: My bad. Certainly. I can easily  
18 explain this once, which I'm sure will be a relief for  
19 everyone. If you are going through the various job numbers  
20 as they appear here, starting on the first page, 2011-011,  
21 that is the only job you'll see that's a 2011 job number  
22 because that is the only Ragle job that was still ongoing  
23 after it was awarded in 2011 into 2013.

24 JUDGE KEY: Okay. So that's the date the job was  
25 awarded?

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1           MR. PRELLER: Right. The Ragle job numbers are in  
2 sequential order on the basis of when they were awarded  
3 within a particular year. So that is the 11<sup>th</sup> job that  
4 Ragle got within the year 2011. It doesn't relate to a  
5 completion date. So the completion date for 2011-011, that  
6 was a very large project. As you can tell, the original  
7 contract amount was \$12,000,000. So that was not completed  
8 until well into 2013 and thus, that was a job that fell  
9 within the ambit of 2013 and thus, we included it on the  
10 list.

11          JUDGE KEY: Okay. So when we get to -- on page two,  
12 Job 00216?

13          MR. PRELLER: That would be the second job that was  
14 awarded in 2016.

15          JUDGE KEY: But we don't know for sure when, for  
16 example -- okay. Well, Falcon didn't perform any of the  
17 work, but we don't know when for sure that work was  
18 actually performed.

19          MR. PRELLER: We have not included the documentary...

20          JUDGE KEY: Okay.

21          MR. PRELLER: ...evidence to that effect. Yes.

22          JUDGE KEY: Thank you so much. I appreciate the  
23 clarification.

24          Go ahead, Mr. Morris.

25          MR. MORRIS: No questions, Your Honor.

1 JUDGE KEY: All right. Any further evidence, Mr.  
2 Garrison?

3 MR. GARRISON: I have no further questions for Mr.  
4 York. I'll need to confer with my client to determine  
5 whether we have additional witnesses to present.

6 JUDGE KEY: Okay. We'll be in recess until 4:30.

7 MR. GARRISON: Thank you.

8 *[Off the record]*

9 MR. GARRISON: Judge Key, based on some of the  
10 questions that you had as to Respondent's Exhibit 32, we're  
11 going to recall Sam Ragle for a few questions.

12 JUDGE KEY: Great. Does anybody have any objection to  
13 -- I think that would be helpful. But does anybody have  
14 any objection to that?

15 MR. JOHNSON: I don't have an objection, Your Honor,  
16 but I did just want to -- while we're on the subject about  
17 Respondent's Exhibit 31. I just wanted to -- and I don't  
18 want to step on Mr. Preller's toes since it's his exhibit.  
19 He prepared it. But if I understood your question  
20 correctly, you can, using the underlying documents, find  
21 dates that when the work was actually performed to some  
22 extent.

23 So for example, if you go for that first Ragle job you  
24 referenced, the 2011-011, if you go to the underlying  
25 Respondent's exhibit, inside that document is a list of

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1 invoices and invoice dates that you could then match up to  
2 see dates when in 2013 when work was actually performed.

3 So if I understood what your question was about trying  
4 to identify specific dates, that at least gets you within  
5 the 2013 realm of when that work was performed.

6 JUDGE KEY: I'm going to take this opportunity to ask  
7 and clarify a few things and I think with the parties.

8 So if we take exhibit -- if we started Exhibit 100 and  
9 go through Exhibit -- if we start there...

10 MR. JOHNSON: Um-hum.

11 JUDGE KEY: If we start at 100, is that the -- do  
12 those -- does that 00 -- where there's a date of 00 -- so  
13 if we look at Respondent's Exhibit 100 and then we compare  
14 it or look at it in connection with Respondent's 32.

15 MR. JOHNSON: 31, Your Honor.

16 JUDGE KEY: Yes. 31. So those -- the numbers -- do  
17 those -- I take it that those numbers -- if we look at  
18 Respondent's Exhibit 100 correlates to the first column of  
19 Respondent's Exhibit 1 or 31, page one, column one.

20 MR. JOHNSON: Correct, Your Honor.

21 MR. PRELLER: With the caveat that the four jobs that  
22 I mentioned are in very quick succession after that for not  
23 supporting exhibits. Meaning, the 2012-009, 2012-010, it  
24 will skip 2011-011. Then...

25 JUDGE KEY: So there may be one skipped, but they

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1 always match up. If I look at the next one down, it's  
2 going to be the underlying invoices for what is the...

3 MR. JOHNSON: Yes. For that project.

4 JUDGE KEY: For the fifth one down?

5 MR. JOHNSON: Yes. Exactly.

6 JUDGE KEY: And...

7 MR. JOHNSON: The Ragle job number from Respondent  
8 Exhibit 31 is the descriptor that goes with Respondent's  
9 exhibit. So it's -- Respondent's Exhibit 100 to 205, as I  
10 understand it, are Respondent's exhibit number and the  
11 Ragle job number is that second descriptor.

12 JUDGE KEY: Okay, and then, that goes though  
13 Respondent's Exhibit -- that stays the same with up to  
14 Respondent's Exhibit 205?

15 MR. PRELLER: Correct.

16 MR. JOHNSON: And then, each of those documents are  
17 whatever -- as complete or incomplete as they may be, are  
18 the, as I understand it from Respondent, those are the  
19 documents that were available related to that specific  
20 project job number.

21 MR. PRELLER: Correct.

22 JUDGE KEY: All right. Go ahead, Mr. Garrison, and  
23 thank you. Thank you so much.

24 MR. PRELLER: And one last small point to General  
25 Counsel's question. I don't think that we were planning on

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1 having Mr. Ragle return for purposes of clarifying Exhibit  
2 31. I think we're calling him back to clarify Exhibit 32,  
3 which is the Falcon spreadsheet.

4 MR. JOHNSON: Right. I was following up on the 31  
5 discussion...

6 MR. PRELLER: Okay. Just making sure.

7 JUDGE KEY: Go ahead, Mr. Garrison.

8 (Whereupon,

9 **SAM RAGLE**

10 having previously been sworn/affirmed, was recalled as a  
11 witness herein, and was examined and testified via video-  
12 conference, as follows:

13 **DIRECT EXAMINATION**

14 Q. MR. GARRISON: Thank you very much, Judge Key.

15 Sam, I see you have that binder open to Respondent's  
16 Exhibit 32 in front of you. You heard there was some  
17 discussion previously on the record about the entries under  
18 category titled Shop Truck Lease. Do you know what that  
19 refers to?

20 A. THE WITNESS: Yes. What it refers to is that Falcon  
21 had an opportunity to buy this truck at an advantage price  
22 wise and ended up buying this truck and we had no use for  
23 it because Falcon was not operating at all or doing any  
24 operations with it. So we decided to sell it to Ragle.  
25 Ragle was able to buy it. The way they paid for it was on

1 a monthly basis, on a lease basis. There was no operations  
2 done whatsoever, but it was just a truck they bought and  
3 they ended up paying for it totally with the cost here.

4 Q. Did any Falcon employees operate that shop truck?

5 A. None whatsoever.

6 Q. And the entries that say shop truck lease, is that the  
7 same as the one that mentions mechanic truck?

8 A. I believe so. Yes.

9 Q. You don't believe those are two separate trucks?

10 A. No, I don't. No.

11 Q. And how about the entry here, Sam, that says lowboy  
12 lease? What does that refer to?

13 A. That was probably -- I believe that was the same thing  
14 and we were able to buy a lowboy at the same -- I think  
15 they bought it and I'm not sure where they bought it at,  
16 but they bought it and they were able to -- they didn't  
17 have any need for it because they weren't doing any hauling  
18 with it or anything and we sold it to Ragle for the cost.

19 Q. Did Falcon employees operate that lowboy?

20 A. They did not.

21 MR. GARRISON: I have nothing further for you.

22 CROSS-EXAMINATION

23 Q. MR. JOHNSON: So if -- I just want to make sure I'm  
24 understanding correctly.

25 So we've had previous testimony. I think you've heard

1 that Falcon only owned quad axle dump trucks and tri-axle  
2 dump trucks, but I'm now understanding that they did also  
3 at one point own a shop truck; is that correct?

4 A. They owned a shop truck. Yes. I guess I was in here  
5 on that because I forgot all about these things. Okay?  
6 So.

7 Q. No, that's fine. That's why I wanted to make sure I  
8 clarified it and understood.

9 So the same thing would be true with the lowboy, which  
10 is Falcon at one point also owned a lowboy, correct?

11 A. Bought it and then leased it, but never used it. Yes.

12 Q. Okay. So I'm -- first, let me ask. I'm kind of  
13 confused why it would refer to it on the invoice as a lease  
14 if it's a sale. I'm not clear why you would -- why it's  
15 referred to as a lease.

16 A. Well, it was just paid for on a monthly basis on a  
17 monthly lease basis.

18 Q. Maybe I'm misunderstanding your definition of a lease,  
19 but my understanding of a lease is that it's being used for  
20 a set period of time or whatever, but there's not actually  
21 a transfer of ownership and you're saying...

22 A. There was a transfer...

23 Q. ...there was a transfer of...

24 A. At the end of the lease period, there was a transfer  
25 of ownership where Ragle ended up buying the equipment.

1 Q. So it was like a lease to own arrangement between the  
2 two companies?

3 A. Yes.

4 Q. Okay. So let me ask with regard to the lowboy, my  
5 understanding is that would mainly be used to haul  
6 equipment to job sites, correct?

7 A. Yes, I guess. Technical, yes. That would be what it  
8 is.

9 Q. Are there -- I guess let me ask a broader question.  
10 What other uses would you use for a lowboy?

11 A. Well, hauling materials. Hauling equipment and that's  
12 basically it.

13 Q. When you say haul materials, I assume you can't haul  
14 dirt or -- what I understand of a lowboy is it's an open  
15 flat bed sort of thing, trailer basically, so you couldn't  
16 use it to haul aggregate or dirt, right?

17 A. No. It would haul pipe or piling or sheeting or forms  
18 or things like that.

19 Q. So I guess I'm not understanding then why Falcon, who  
20 only does dump truck work delivering aggregate and dirt to  
21 job sites, why Falcon would ever need a lowboy.

22 A. We didn't need a lowboy. We had an opportunity to buy  
23 it from a business standpoint of view and we purchased it  
24 on that basis. We could purchase -- you know, Falcon had  
25 the opportunity to purchase a lowboy and they did and then

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1 we knew that potentially Ragle had a use for so we decided  
2 that at least Ragle could go ahead and buy it and lease it.

3 Q. Did Falcon lease the lowboy out to other companies,  
4 too?

5 A. No.

6 Q. Did Falcon have this kind of arrangement with other  
7 companies? Maybe not this lowboy, but they would buy  
8 another lowboy because they had an opportunity to lease it  
9 to other companies?

10 A. No.

11 Q. Okay. Why didn't Ragle just buy it itself instead of  
12 having Falcon buy it and lease it, lease to own or whatever  
13 this is called?

14 A. In transportation mode, there's some advantages from a  
15 tax standpoint for me to do it this way.

16 Q. Okay. So I got you. So maybe that's the part I was  
17 missing. So it's advantageous from a tax perspective for  
18 both companies for Falcon to do this and it benefits both  
19 Falcon and Ragle; is that what you're...

20 A. Yes.

21 Q. Okay. So then, let me also while we're on the  
22 Respondent's Exhibit 32 -- there was -- I just want to ask  
23 another. There was a category on the second page. I guess  
24 -- I think the fuel, I think, has been somewhat explained.  
25 The second page has the miscellaneous hauling for shop.

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1 It's the second line there for \$8,200. What would Falcon  
2 have been miscellaneous hauling for shop that would then be  
3 invoiced to Ragle for \$8,200?

4 A. They hauled some materials into the shop. Dirt.  
5 Something like that. Dirt piles at the shop. Things like  
6 that. So that's probably why they invoiced it.

7 Q. Okay. Okay. I think the other ones, I think were  
8 fairly at least answered by Mr. York. So let me ask real  
9 quick. The one that was CC reimbursement, do you have any  
10 details on what that would've been or an explanation for  
11 that?

12 A. Somebody needs some -- I mean, it might have been cash  
13 for something. I can't tell whether it was a credit card  
14 or cash or what it was. Somebody bought something and  
15 somebody had to be reimbursed for it.

16 Q. I guess why would Ragle be reimbursing Falcon for  
17 that?

18 A. It might've been something -- you know, I really can't  
19 tell you what it was specifically. If somebody bought  
20 something that Ragle needed and Ragle is the one that  
21 reimbursed them for it.

22 Q. And let me also just ask. I think it's -- hopefully  
23 I'm not stepping on the Judge's toes, but because it's in  
24 this document, there's also fuel charges for RiverTown  
25 Construction and I know there's been some testimony about

1 RiverTown. Is -- would all three companies be sharing the  
2 same fuel tank basically? Is that what...

3 A. At one time, yes. That's what they did. They shared  
4 the same fuel and we had the adjust things as they got with  
5 the bills.

6 MR. JOHNSON: Okay. Okay. I have no further  
7 questions, Your Honor.

8 JUDGE KEY: Anything, Mr. Morris?

9 MR. MORRIS: No, thank you, Your Honor.

10 JUDGE KEY: Anything -- Mr. Garrison, any follow up in  
11 light of Mr. Johnson's questions?

12 MR. GARRISON: No. No additional follow up. Thank  
13 you, Judge Key.

14 JUDGE KEY: All right. Mr. Preller, okay. So does  
15 anyone -- and Mr. Preller, I'm cognizant that there's an  
16 issue that we're going to discuss before we close the  
17 hearing today, but Mr. Johnson -- does anybody want to make  
18 closing arguments?

19 MR. JOHNSON: No, Your Honor. I'm fine doing that.  
20 We're going to do briefs. I'm fine doing it in brief.

21 JUDGE KEY: Definitely briefs.

22 Mr. Morris, any closing argument that you would like  
23 to make?

24 MR. MORRIS: We'll brief. Appreciate it.

25 JUDGE KEY: And Mr. Garrison?

1 MR. GARRISON: Yes. Also briefing it, Your Honor.

2 JUDGE KEY: All right. There has been one issue that  
3 we're going to take up in relation to a subpoena file. Are  
4 there -- I'm obviously going to have some discussion in  
5 relation to the briefing schedule, but are there any other  
6 matters that the parties would like to address or discuss  
7 before I close the record?

8 MR. JOHNSON: Nothing from General Counsel, Your  
9 Honor.

10 JUDGE KEY: Okay. So now, I'm looking in the  
11 SharePoint and there's subpoenas. Okay. So let's see. It  
12 looks like there are three documents in the subpoena file.  
13 Would you like to mark those as Subpoena 1, Subpoena 2, and  
14 Subpoena 3?

15 **(Subpoena Exhibit's 1 through 3 marked for identification.)**

16 MR. GARRISON: That would be perfectly agreeable. I  
17 don't know if they need to be reordered in any way, but I  
18 think that'll be enough for referencing purposes. So yeah,  
19 that's...

20 JUDGE KEY: So the -- just -- Ms. Molinaro, you in the  
21 file with me? The first document has the number -- it's  
22 September 6, 2022 Respondent's Petition to Partially  
23 Revoke. That is going to be -- there'll be a subpoena file  
24 and that's going to be Subpoena 1. Let me just -- and  
25 then, the next document dated September 12<sup>th</sup>, 2022 will be

1 Subpoena 2. Let me just take a look at this. Hold on.

2 *[Brief pause]*

3 Mr. Preller, looking at the Petition to Partially  
4 Revoke the Subpoena, the Union Subpoena Duces Tecum, were  
5 there any -- as I recall and maybe -- were there any  
6 disputes with regard to this subpoena or were all the  
7 issues resolved with respect to the Union subpoena? My  
8 recollection was just related to the -- let's go off the  
9 record for a second.

10 *[Off the record]*

11 JUDGE KEY: We're going to mark the document marked as  
12 September 6, 2022 as Subpoena 1. September 12, Subpoena 3,  
13 and then, the third document that starts with RSP 25-CA,  
14 GC's opposition to Respondent's Petition to Revoke as  
15 Subpoena 3. We're going to mark those as Subpoena 1, 2,  
16 and 3.

17 Is there any objection to the admission of those  
18 documents from counsel for the General Counsel?

19 MR. JOHNSON: No, Your Honor.

20 JUDGE KEY: And from Mr. Morris?

21 MR. MORRIS: No, Your Honor.

22 JUDGE KEY: I hereby admit Subpoena 1, 2, and 3 into a  
23 separate subpoena file. All right.

24 **(Subpoena Exhibit's 1 through 3 received into evidence.)**

25 MR. GARRISON: Thank you, Your Honor.

1 JUDGE KEY: I think we've gone over the admission of  
2 the records that everything has been admitted that was  
3 offered. Is there any questions that anybody has or any  
4 confirmations that they'd like to make with the Court  
5 Reporter regarding the admission of records?

6 All right. I will prepare and file with the Board my  
7 Decision of the proceeding. A copy will be served on the  
8 party. You should refer to the Board's rules and  
9 regulations for information regarding the filing of briefs  
10 and your proposed findings for my consideration regarding  
11 procedures before the Board after my Decision is issued.  
12 Now that all the evidence is in, you may have a better  
13 sense of your chances of prevailing. With that in mind,  
14 the parties should, again, consider whether amicable  
15 settlement might be worthwhile.

16 Settlement may be arranged now or at any time before I  
17 issue my Decision. I will allow 35 days from today's date  
18 for you to file any briefs or proposed findings and  
19 conclusions. That date is November 15<sup>th</sup>, 2022. Any  
20 request for extensions of time for filing those pleadings  
21 must be made in writing to the Associate Chief Judge in  
22 Washington and served on the other parties. The position  
23 of the other parties regarding the extension should be  
24 obtained and set forth in request.

25 It is the policy of the Division of Judges to grant

1 discretionary extensions only when they are clearly  
2 justified. Requests for extensions must contain the  
3 specific reason and show that the requesting party cannot  
4 reasonably meet the current deadline.

5 There being nothing further, the trial is now closed  
6 and we are off the record.

7 *[Off the record]*

8 **(Whereupon, the hearing was concluded at 5:54 p.m.**  
9 **EST)**

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#### **CERTIFICATION**

**ARS REPORTING LLC**  
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This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), in the matter of **Falcon Trucking, LLC, and Ragle, Inc. a single Employer and/or Joint Employers and Chauffeurs, Teamsters and Helpers, Local Union No. 215 A/W International Brotherhood of Teamsters, Case Nos. 25-CA-132518, 25-CA-135316, 25-CA-135335, and 25-CA-159531**, on Tuesday the 11<sup>th</sup> day of October, 2022, was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the recording, at the hearing, that the exhibits are complete and no exhibits received in evidence or in the rejected exhibit files are missing.

Jennifer Molinaro, Official Reporter

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